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on a

**Proposed Draft Settlement Agreement  
for Natural Resource Injuries  
at the  
Col-Tex State Superfund Site**

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**October 2002**

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**SETTLEMENT FOR NATURAL RESOURCE INJURIES  
AT THE COL-TEX STATE SUPERFUND SITE  
IN COLORADO CITY, TEXAS**

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**SETTLEMENT AGREEMENT**

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*Settling Parties:*

**Texas Commission on Environmental Quality,  
Texas Parks and Wildlife Department,  
Texas General Land Office,  
Chevron Environmental Management Company,  
Atofina Petrochemicals, Inc., and  
Lone Wolf Land Company**

**October 2002**

**SETTLEMENT FOR NATURAL RESOURCE INJURIES**  
**AT THE COL-TEX STATE SUPERFUND SITE**  
**IN COLORADO CITY, TEXAS**

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Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

**EXHIBITS:**

Exhibit I	Habitat Enhancement and Restoration Plan, Compensatory Restoration, Col-Tex Site, Colorado City, Texas (2002)
Exhibit II	Legal Description of Restoration Property
Exhibit III	Withdrawal Memorandum from U.S. Fish and Wildlife
Exhibit IV	Legal Description of Property (15 Acres) Contiguous to Restoration Property
Exhibit V	Enacted House Bill 2859
Exhibit VI	Maps of Property Ownership and Conservation Areas
Exhibit VII	Draft Conservation Easement for Property Owned by the Texas Department of Criminal Justice
Exhibit VIII	Draft Conservation Easement for Property Owned by ATOFINA Petrochemicals, Inc.
Exhibit IX	Draft Conservation Easement for Property Owned by Lone Wolf Land Company
Exhibit X	Project Completion and Certification Schedule

**SETTLEMENT FOR NATURAL RESOURCE INJURIES**  
**AT THE COL-TEX STATE SUPERFUND SITE**  
**IN COLORADO CITY, TEXAS**

**SETTLEMENT AGREEMENT**

This settlement agreement (the “Agreement”) is by and between the Texas Commission on Environmental Quality, the Texas General Land Office, and the Texas Parks and Wildlife Department, hereinafter collectively referred to as the “Trustees”; ATOFINA Petrochemicals, Inc. (formerly Fina Oil and Chemical Company), a potentially responsible party (PRP) hereinafter referred to as “ATOFINA”; Chevron Environmental Management Company (a successor in interest to Chevron U.S.A., Inc.), a PRP hereinafter referred to as “Chevron”; and Lone Wolf Land Company, a wholly-owned subsidiary of ATOFINA hereinafter referred to as “Lone Wolf”. The Trustees, ATOFINA, Chevron, and Lone Wolf are hereinafter collectively referred to as “the Parties”.

The Parties hereby agree that this Agreement was negotiated and executed in good faith and at arms length to avoid expensive and protracted litigation, and it is a fair and equitable settlement of potential natural resource damages pertaining to the Col-Tex Site. The execution of this Agreement is not, and shall not constitute or be construed as, an admission of liability by any of the Parties, or of any of the factual allegations set out below, or of any violation of any law, rule, regulation, or policy by any of the Parties to this Agreement.

**I. DEFINITIONS**

1. Whenever the terms set forth herein are used in this Agreement, the following definitions shall apply:

a. “Trustees” shall mean all of the governmental agencies in the state of Texas with delegated authority from the Governor to act as a trustee for the state’s natural resources. The Trustees, all of whom are signatories to this Agreement, are the Texas Commission on Environmental Quality (“TCEQ”), the Texas Parks and Wildlife Department (“TPWD”), and the Texas General Land Office (“GLO”);

b. “Lead Administrative Trustee” or “LAT” shall mean the trustee agency responsible for coordination of all trustee activities associated with the Col-Tex Site. The LAT for this matter is the TCEQ;

c. “Settling Parties” shall mean ATOFINA and Chevron;

d. “Parties” shall mean the Trustees, the Settling Parties and Lone Wolf;

e. “Holder” shall mean an entity that is a qualified organization under Section 170(h) of the U.S. Internal Revenue Code (26 U.S.C. 170(h)) and that qualifies as a Holder under Section 183.001(2) of the Texas Natural Resources Code.

f. “Col-Tex Site” or “Site” shall mean the former refinery property located immediately west of Colorado City in Mitchell County, Texas, and north and south of U.S. Highway 80 (Business I-20), and areas potentially affected by historical refinery operations, including but not limited to, that portion of the Colorado River located north and east of the former refinery property. The Site is located within the Texas and Pacific Railroad Survey, Block

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Col-Tex State Superfund Site in Colorado City, Texas

26, Section 42 and 43, Mitchell County, Texas. Currently, the Site includes the following study areas: 1) the Tank Farm area; 2) the Col-Tex II Refinery area; and 3) the North Pond area. Farm to Market Road (FM) 1983 is the western boundary of the Tank Farm and Col-Tex II sites;

g. “TDCJ” shall mean the Texas Department of Criminal Justice, a state governmental agency;

h. “Restoration Project” shall mean the compensatory restoration project planned for implementation on properties presently owned by TDCJ, ATOFINA and Lone Wolf. The project involves the removal of non-native riparian vegetation and restoration or reestablishment of native riparian habitat species along the Colorado River, local improvements to water quality in the Colorado River through implementation of erosion control measures, restoration of scrub/shrub habitat on adjacent upland areas, and establishment and enhancement of surface water resources for wildlife. The scope of the restoration project is more fully described in the Restoration Plan (defined below);

i. “Restoration Plan” shall mean the *Habitat Enhancement and Restoration Plan, Compensatory Restoration, Col-Tex Site, Colorado City, Texas* prepared by the Settling Parties at the direction of and with the approval of the Trustees and attached hereto and incorporated herein as Exhibit I;

j. “Restoration Property” shall mean the adjoining real properties owned by the Texas Department of Criminal Justice, ATOFINA, and Lone Wolf located in Mitchell County, Texas and more fully described in Exhibit II. The Restoration Property is comprised of approximately 85 acres and encompasses a portion of the Colorado River and riparian and upland areas immediately south of the Texas Department of Criminal Justice Wallace/Ware prison units, north of U.S. Highway 80 (Business I-20) and west of the Colorado City city limits;

k. “Conservation Easement” shall mean the legal document attached hereto and incorporated herein as Exhibit VII, VIII and IX, as applicable, after it is signed by the grantor; the Holder; and TCEQ, TPWD, and GLO as governmental third parties with the right to enforce the terms of the conservation easement;

l. “Paragraph” shall mean a portion of this Agreement identified by an arabic numeral;

m. “Section” shall mean a portion of this Agreement identified by a roman numeral; and

n. “Day” shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal and state holidays, the period shall run until the close of business of the next working day.

## **II. TRUSTEE AUTHORITY**

2. The Trustees enter into this Agreement pursuant to their designation as trustees by the Governor of Texas under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), Oil Pollution Act of 1990 (OPA), and their authority under other

applicable federal and/or Texas laws. The Trustees act on behalf of the public to recover for injuries to natural resources and the services they provide.

### **III. PARTIES BOUND**

3. The provisions of this Agreement shall apply to and be binding upon the State of Texas, its departments, agencies, and other subdivisions, and upon ATOFINA, Chevron and Lone Wolf, their successors, assigns, and all persons and entities acting under their control or direction in connection with this matter. Any obligation in this Agreement imposed on ATOFINA, Chevron and Lone Wolf shall be considered a single obligation jointly held, and satisfactory performance by any party shall satisfy the obligations of all under this Agreement.

### **IV. STATEMENT OF FACTS**

4. The Col-Tex Site was the location of a petroleum refinery, which operated at that location from 1924 to 1969.

5. Investigatory and remedial activities are being performed at the Site by ATOFINA and Chevron under the supervision and guidance of the Texas Commission on Environmental Quality. The areas being investigated and also addressed in this Agreement include the following: Tank Farm, Col-Tex II, North Pond and the Colorado River.

6. Natural resources at the Site over which the Trustees claim trusteeship for purposes of this Agreement include avian, mammalian, aquatic and plant life, soil, sediment, water, air and groundwater.

7. The primary habitats that exist at the site are terrestrial, riparian, riverine aquatic, and open water aquatic.

8. The Trustees believe that releases of hazardous substances and/or petroleum have occurred at the Site during historical operations. The Trustees further believe that these releases have potentially injured and could be continuing to potentially injure natural resources.

9. The Trustees and the Settling Parties entered into a Memorandum of Agreement ("MOA") on March 13, 1998 to perform a joint cooperative natural resource damage assessment. The MOA was entered into in recognition of the common interest of the Trustees, ATOFINA and Chevron in determining whether natural resources have been or are likely to be injured and whether these injuries, if any, are associated with releases of hazardous substances or petroleum at the Site.

10. The U.S. Fish and Wildlife Service, acting on behalf of the U.S. Department of Interior, elected not to participate in the assessment process. A copy of the memorandum from the U.S. Fish and Wildlife Service concerning such election is attached hereto and incorporated herein as Exhibit III.

11. Based upon the results of the cooperative assessment and the desire to reach settlement in this matter, the Parties have assessed actual and/or potential injuries to natural resources comprising or using the four habitats at the Site (i.e., terrestrial, riparian, riverine

aquatic, and open water aquatic). This assessment is based, in part, upon the injury assessment, which considered chemical concentration data in soil, sediment and water and conservative ecological effects thresholds. The findings of the injury assessment are documented in the Restoration Plan and were made available for public comment.

12. The Trustees have determined that ATOFINA, Chevron and Lone Wolf, by entering into and successfully completing the requirements set forth in this Agreement, are undertaking appropriate actions necessary to compensate for the potentially injured natural resources associated with the Col-Tex Site (including any injuries to migratory birds).

## **V. COMPENSATORY RESTORATION REQUIREMENTS**

13. As compensation for the actual and/or potential injuries to natural resources associated with the Col-Tex Site, ATOFINA, Chevron and Lone Wolf shall perform the Restoration Project, as described in the Restoration Plan. The Restoration Project is generally comprised of the following actions: construction of erosion control structures, pond and guzzler, and site preparation and planting of riparian and upland zones/areas. Performance monitoring shall be conducted for all planting areas in the riparian and upland habitat areas to ensure that the success criteria set forth in Exhibit I are met. In addition, Conservation Easements shall be filed on all properties that comprise the Restoration Property and ATOFINA, Chevron, and Lone Wolf shall post visible, weather-resistant signs around the Restoration Property that indicate no trespassing. Commencement of the Restoration Project shall occur within one year of the effective date of this Agreement.

14. The Settling Parties may, if approved by the Executive Director of the Texas Natural Resource Commission, utilize the ecological services analysis approach under the Texas Risk Reduction Program at 30 Tex. Admin. Code § 350.33(a)(3)(B) to address potential ecological risks that may exist at the Col-Tex Site through the provision of additional compensatory restoration. Accordingly, the Settling Parties have reserved an additional 15 acres immediately contiguous to the Restoration Property for potential use as additional compensatory restoration. The Parties agree that the amount and type of such compensatory ecological restoration and enhancement, if any, will not be determined until completion of the Affected Property Assessment Report (APAR) for the Col-Tex Site. A legal description of the additional 15 acres is attached hereto and incorporated herein as Exhibit IV.

15. By an act of the Texas Legislature (HB 2859), the TDCJ is required to grant a conservation easement to the Natural Area Preservation Association, Inc. (NAPA) over that portion of the Restoration Property owned by TDCJ. A copy of the enacted legislation is incorporated by reference and attached hereto as Exhibit V. The location of the TDCJ property in context with the ATOFINA and Lone Wolf properties is depicted on the property ownership map provided in Exhibit VI. In the event that NAPA is not fulfilling its obligations as Holder of the conservation easement, ATOFINA and Chevron shall notify the Trustees within 15 days of actual knowledge of such event. If the Trustees agree that NAPA is not fulfilling its obligations as Holder of the conservation easement, the Trustees shall notify ATOFINA and Chevron of such determination and the Parties, in coordination with TDCJ, shall identify another Holder to accept the easement at a reasonable cost within one hundred and eighty (180) days of the notice. Once a new Holder is identified and approved by the Parties, the TDCJ will record the easement in the



Mitchell County real property records within ninety (90) days of approval of the new Holder by the Parties. Approval of the new Holder shall not be unreasonably withheld by the Trustees.

16. ATOFINA and Lone Wolf shall grant and properly record conservation easements over those portions of the Restoration Property owned by each company prior to the effective date of this Agreement. The conservation easements shall be in favor of NAPA as Holder and TCEQ, TPWD and GLO as governmental Third Parties with Right of Enforcement, within the meaning of TEX. NAT. RES. CODE ANN. §§ 183.001 *et seq.* In the event that NAPA refuses to accept the conservation easement, ATOFINA and Chevron shall notify the Trustees of that fact and the Parties shall identify another Holder to accept the conservation easement at a reasonable cost within one hundred eighty (180) days of the Settling Parties' knowledge of NAPA's refusal. In the event that NAPA is not fulfilling its obligations as Holder of the conservation easement, ATOFINA and Chevron shall notify the Trustees within 15 days of actual knowledge of such event. If the Trustees agree that NAPA is not fulfilling its obligations as Holder of the conservation easement, the Trustees shall notify ATOFINA and Chevron of such determination and the Parties shall identify another Holder to accept the easement at a reasonable cost within one hundred and eighty (180) days of the notice. Once a new Holder is identified and approved by the Parties in either situation, ATOFINA or Lone Wolf, as applicable, shall record the easement in the Mitchell County real property records within ninety (90) days of approval of the new Holder by the Parties. Approval of the new Holder shall not be unreasonably withheld by the Trustees. Until the Conservation Easements are recorded and effective, ATOFINA and Lone Wolf shall preserve those portions of the Restoration Property owned by each company to ensure that the natural and ecological integrity of the properties are maintained.

17. The final drafts of the conservation easements to be granted and recorded by the TDCJ, ATOFINA and Lone Wolf are attached hereto and incorporated by reference herein as Exhibits VII through IX, respectively. If any substantive changes to the conservation easement are made subsequent to the execution of this Agreement, the proposed changes will be subject to Trustee review and approval.

18. At anytime following the effective date of this Agreement, ATOFINA and Lone Wolf may transfer their ownership interests in the Restoration Property provided that the transferee shall be required to comply with all obligations required of ATOFINA and Lone Wolf herein.

## **VI. PROJECT COMPLETION AND CERTIFICATION**

19. ATOFINA, Chevron and Lone Wolf shall ensure the satisfactory implementation and completion of the Restoration Project, which is comprised of the following general tasks: site preparation, planting and performance monitoring. The schedule for completing these tasks and receiving Trustee certification is attached hereto and incorporated by reference as Exhibit X.

20. The performance criteria for each habitat type are described in the Restoration Plan. In the event that the performance criteria are not met, ATOFINA, Chevron and Lone Wolf shall undertake appropriate corrective action as described below:

a. Maintenance. Maintenance action shall be required if (1) the revegetation of a restoration area fails to grow over two consecutive years or (2) a bare patch exists that is

greater than 1/8th acre for a riparian zone or 1/4th acre for the upland area.

b. Curative Responses. If the results of an annual monitoring report demonstrate that a zone and/or area is not meeting the performance criteria specified in the Restoration Plan and the acreage of the failing zone and/or area is greater than or equal to 15% of the total acreage for a riparian zone or 25% of the total acreage for the upland restoration area, ATOFINA and Chevron shall be required to perform a curative response as set forth in the Restoration Plan. No more than two curative responses shall be required for each zone and/or area. The curative response action will be jointly determined by the Parties.

c. Notwithstanding any other provision to the contrary, no site preparation, replanting, performance monitoring, or maintenance activities in the riparian or upland zone and/or areas shall be required for any zone and/or area after the earlier of (1) seven (7) years from the date of certification of completion of site preparation, or (2) the date upon which the second curative response action for such zone and/or area was completed.

21. Upon full completion of each distinct portion of the project, as illustrated in Exhibit X, ATOFINA, Chevron, and Lone Wolf shall provide the LAT a written statement that the work has been completed for that distinct portion. No later than sixty (60) days after receipt of such statement, the Trustees shall provide ATOFINA, Chevron, and Lone Wolf with a written statement either certifying the work as complete or identifying the reasons the work does not meet the criteria set forth in the Restoration Plan. After the Trustees certify the work as complete, ATOFINA, Chevron and Lone Wolf shall have no further obligation for that portion of the Restoration Project.

## **VII. TRUSTEE ASSESSMENTS COSTS**

22. Pursuant to the MOA, ATOFINA and Chevron reimbursed the Trustees' past assessment costs incurred prior to the execution of the MOA and all Trustee assessments costs incurred and billed through December 31, 2000. The total cost paid through this date is \$139,263.25, which includes total payments of \$91,877.53 to the TCEQ, \$30,795.68 to the TPWD, and \$16,590.14 to the GLO.

23. ATOFINA and Chevron hereby agree to pay those reasonable assessment costs accruing from January 1, 2001 through the effective date of this Agreement. Such costs are identified below and shall be paid by check within thirty (30) days of the effective date of this Agreement in the manner provided for in Paragraph 25.

TCEQ:	\$18,601.57
TPWD:	\$ 8,358.18
GLO:	<u>\$ 2,378.47</u>
<u>Total:</u>	<u>\$29,338.22</u>

24. The Trustees anticipate further costs in connection with oversight of the Restoration Project, subsequent monitoring activities, participation in the ESA, and any costs associated with the conservation easement. The Trustees' best estimate of their reasonable future costs is as follows:

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TCEQ:	\$ 33,426.78
TPWD:	\$ 28,307.04
<u>GLO:</u>	<u>\$ 14,765.00</u>
 <u>Total:</u>	 <u>\$ 76,498.82</u>

25. Payment of the Trustees' reasonable assessment costs accruing from January 1, 2001 through the effective date of this Agreement, as described in Paragraph 24, and estimated future oversight costs, as described in Paragraph 25, shall be paid within thirty (30) days of the effective date of this Agreement as follows:

a. TCEQ: A check in the amount of \$52,028.35 payable to the "Texas Commission on Environmental Quality" and with the additional notation "Col-Tex Natural Resource Damage Assessment, PCA 48082/Project No. 480800" shall be sent to:

Texas Commission on Environmental Quality  
Attn: Mr. John Racanelli, MC-0184  
P.O. Box 13088  
Austin, Texas 78711-3088

b. TPWD: A check in the amount of \$36,665.22 payable to the "Texas Parks and Wildlife Department" and referencing the "Col-Tex Natural Resource Damage Assessment" shall be sent to:

Texas Parks and Wildlife Department  
Claudia Lizcano, Cashier & Revenue Control  
4200 Smith School Road  
Austin, Texas 78744

c. GLO: A check in the amount of \$17,143.47 payable to the "Texas General Land Office" and referencing the "Col-Tex Natural Resource Damage Assessment" shall be sent to:

Texas General Land Office  
Attn: Mr. Kenneth Liles  
1700 North Congress, Room 810, MC-127  
Austin, Texas 78701

26. Each Trustee shall take reasonable steps to minimize future costs, including coordination of its oversight and monitoring activities through the LAT in order to avoid duplication of effort.

27. In the event that the Trustees incur reasonable and necessary future oversight costs in excess of the future costs designated in Paragraph 25 prior to the termination of this Agreement, ATOFINA, Chevron and Lone Wolf shall reimburse each Trustee for its actual additional expenses within sixty (60) days of receipt of an itemized accounting of each Trustee's actual costs and expenses. ATOFINA, Chevron and Lone Wolf shall not be responsible for any

future costs after termination of this Agreement. This provision does not affect, in any way, the termination of this Agreement as provided for in Paragraph 47.

### **VIII. COVENANT NOT TO SUE**

28. The Trustees hereby covenant not to sue or take any civil or administrative action against ATOFINA, Chevron or Lone Wolf for any cause of action under CERCLA, OPA or any other federal, state or common law for actual or potential natural resource injuries associated with the Col-Tex Site, subject to the payment in full of the Trustees' assessment costs as set forth in Section VII. and completion of the compensatory restoration requirements set forth in Sections V and VI. This covenant not to sue shall take effect upon the effective date of this Agreement and shall remain in effect so long as ATOFINA, Chevron and Lone Wolf fulfill their obligations under this Agreement.

29. ATOFINA, Chevron and Lone Wolf hereby covenant not to sue the State of Texas, including any and all departments, agencies, officers, administrators, state contractors and representatives thereof, for any cause of action known to ATOFINA, Chevron and Lone Wolf on the effective date of this Agreement, or that could have been asserted on the effective date of this Agreement, arising out of or relating to actual or potential natural resource injuries at the Col-Tex Site.

30. Notwithstanding any other provisions of this Agreement, the Trustees reserve the right to assert claims against ATOFINA and Chevron jointly or separately where (i) conditions that were unknown to Trustees on or before the Effective Date of this Agreement are discovered that result in injury to natural resources, or (ii) new information is received by the Trustees after the Effective Date of this Agreement which indicates that there is injury to natural resources of a type unknown to the Trustees before the Effective Date of this Agreement. For purposes of this paragraph, the definition of "injury" is the same as that found in 43 Code of Federal Regulations Section 11.14(v). Additionally, no condition shall be deemed "unknown" and no information shall be deemed "new" if the condition is identified in or the information is contained in the facts, documents, evidence, and data in the possession, on or before the Effective Date of this Agreement, of any of the following: all state trustee agencies (TCEQ, TPWD, and GLO), the TCEQ Superfund Program and the agency's other departments, divisions, and any in-house experts.

31. Nothing in this Agreement is intended to be, nor shall it be construed as, a release or covenant not to sue for any claim or cause of action, administrative or judicial, for:

a. Natural resource damages, if ATOFINA, or Chevron do not pay in full the Trustees' assessment costs set forth in Section VII., or satisfactorily complete the Restoration Project and related obligations described in Sections V. and VI., or otherwise comply with this Agreement. A claim for natural resource damages based on the injury assessment that forms the basis of this Agreement may only be asserted if ATOFINA, Chevron, and Lone Wolf fail to comply with the dispute resolution provisions set forth in Section X. (Dispute Resolution) of this Agreement or if such dispute resolution reaches an unsuccessful conclusion. In addition, in no event may the Trustees seek such damages inconsistent with the requirements of Paragraph 36.e of this Agreement, unless otherwise expressly authorized by this Section;

b. Future releases not contemplated in the injury assessment that forms the basis of this Agreement, including but not limited to, releases caused by any failure of the remedial action (e.g., additional seeps into the Colorado River);

c. Any and all criminal liability; or

d. Any matter not expressly included in the covenants not to sue set forth in this Section.

32. This covenant not to sue survives the termination of this Agreement pursuant to Section XV of this Agreement.

## **IX. FORCE MAJEURE**

33. During the implementation of the Restoration Project, force majeure is defined as any event arising from causes beyond the control of ATOFINA, Chevron and Lone Wolf or of any entity controlled by ATOFINA, Chevron and Lone Wolf (including, but not limited to, its contractors and subcontractors) that delays or prevents the performance of any obligation under this Agreement despite ATOFINA's, Chevron's and Lone Wolf's best efforts to fulfill the obligation. The requirement that ATOFINA, Chevron and Lone Wolf exercise "best efforts to fulfill the obligation" shall include using best efforts to anticipate a potential force majeure event; using best efforts to address the effects of a potential force majeure event as it is occurring; and using best efforts following the potential force majeure event, such that the delay is minimized to the greatest extent practicable. Force majeure does not include financial inability to complete the obligations of this Agreement.

a. If a potential force majeure event occurs or has occurred that may delay the performance of the restoration project, ATOFINA, Chevron or Lone Wolf shall verbally notify the LAT within 3 days of becoming aware of a potential force majeure event. Within 30 days thereafter, ATOFINA, Chevron or Lone Wolf shall provide the LAT with a written explanation and description of the reasons for the delay; the anticipated duration of the delay; actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; any necessary adjustments to the Restoration Project schedule; and ATOFINA's, Chevron's and Lone Wolf's rationale for attributing such delay to a force majeure event if they intend to invoke force majeure, including all supporting documentation. In the event that ATOFINA's, Chevron's or Lone Wolf's failure to timely comply with the above requirements results in significant delays in the project schedule, ATOFINA, Chevron and Lone Wolf may be precluded from invoking force majeure for that event. ATOFINA, Chevron and Lone Wolf shall be deemed to have notice of any circumstance of which their contractors or subcontractors had or should have had notice.

b. Upon receipt of the force majeure written explanation from ATOFINA, Chevron or Lone Wolf, the Trustees shall provide a written response within sixty (60) days of accepting or rejecting the claim of force majeure. If no response is received within that time frame, a force majeure event will be deemed to have occurred. If the Trustees agree that a force majeure event has occurred and that it caused a delay or anticipated delay, the effect of the force majeure event shall be that the time for performance of the obligations under this Agreement that are affected by the force majeure event will be extended by the Trustees for such time as is necessary to complete these obligations. An extension of the time for performance of the

obligation affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. If the Trustees do not agree that the delay or anticipated delay has been or will be caused by a force majeure event, the Trustees will notify ATOFINA, Chevron and Lone Wolf in writing of that decision. If the Trustees agree that the delay is attributable to a force majeure event, the Trustees will notify ATOFINA, Chevron and Lone Wolf in writing of that decision and the length of any extension granted.

c. No later than fifteen days after receipt of the Trustee's notice of decision relating to the force majeure claim, ATOFINA, Chevron and Lone Wolf may elect to request a reconsideration of the matter pursuant to Section X. (Dispute Resolution).

34. Acts of force majeure may include (a) acts of God, (b) acts of war, (c) governmental regulation or restraint and (d) criminal acts by third parties that result in damage to or destruction of the Restoration Property provided that two curative measures have already been conducted and the acts do not occur as a result of an act or omission of ATOFINA, Chevron, or Lone Wolf.

## **X. DISPUTE RESOLUTION**

35. If a dispute arises over the course of this Agreement, the Parties shall endeavor to resolve the dispute on an informal basis.

36. If a dispute is not resolved through informal discussions, the Parties shall employ the dispute resolution process presented below. If the Trustees determine that ATOFINA, Chevron, or Lone Wolf, their subsidiaries, successors or assigns have materially failed to perform any obligation required of them under this Agreement or otherwise dispute claims or positions taken by ATOFINA, Chevron, or Lone Wolf, the Trustees shall then seek performance pursuant to the following dispute resolution mechanism:

a. The LAT shall give ATOFINA, Chevron and Lone Wolf written notice of the event of default/dispute within ten (10) business days after the Trustees determine that there is a default/dispute.

b. ATOFINA, Chevron and Lone Wolf shall then be given an opportunity to cure the default/dispute, provided they give the LAT written notice within forty-five (45) business days of the receipt of the notice of default/dispute that they intend to cure the default/dispute.

c. Within a reasonable time following the LAT's receipt of ATOFINA's, Chevron's, and/or Lone Wolf's notice of intent to cure, the Trustees shall consult with ATOFINA, Chevron and Lone Wolf regarding the appropriate actions and time period necessary to cure the default/dispute. Thereafter, the LAT shall issue a second notice letter to ATOFINA, Chevron and Lone Wolf that sets forth the Trustees' determination of appropriate actions and time period for curing the default/dispute.

d. In the event that ATOFINA, Chevron and Lone Wolf fail to respond to the default/dispute notice or to cure any event of default/dispute within the time and in the manner specified in the second default/dispute notice, ATOFINA, Chevron and Lone Wolf and the Trustees agree to hire a third-party mediator, at the expense of ATOFINA, Chevron and Lone Wolf, to mediate the matter. If mediation is not successful, the Trustees may take any and all

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legal or administrative enforcement actions appropriate to enforce the terms of this Agreement.

e. The Trustees agree in the aforementioned enforcement action not to seek natural resource damages beyond those necessary to compensate for the amount of ecological services lost at the Col-Tex Site that form the basis of the compensatory restoration requirements described in the Restoration Plan, or that portion of the lost ecological services which has not been compensated by the performance of this Agreement up to the time of the defaulting event, whichever is less.

37. The dispute resolution process outlined above in Paragraph 36 shall also apply in the event that ATOFINA, Chevron or Lone Wolf concludes that the Trustees have failed to fulfill their obligations under this Agreement or are in dispute with the Trustees on matters subject to this Agreement.

38. ATOFINA, Chevron and Lone Wolf shall not be considered to be in default of this Agreement for (a) failing to meet the performance criteria after having conducted two curative measures or (b) refusal by NAPA to accept and execute a conservation easement as Holder.

39. Any notice, demand, or response which is required hereunder shall be given in writing and shall be deemed to be duly given only if hand delivered or mailed by registered mail, return receipt requested, postage prepaid, to the persons and addresses set forth in Section XI. (Notices) of this Agreement. Hand delivery shall include delivery by overnight mail or other delivery service. Notice shall be deemed to have been received on the date that it is hand delivered or, if delivered by registered mail, the date of receipt as shown on the return receipt, or as shown on the return notice from the Post Office, should delivery be refused. The Trustees and ATOFINA, Chevron and Lone Wolf shall have a continuing duty to provide each other with current, valid addresses and telephone numbers.

## **XI. NOTICES**

40. Unless otherwise specified herein, whenever notifications or communications are required by this Agreement, said notifications or communications shall be made in writing and addressed as follows:

For TCEQ: Charles Brigance  
Project Manager  
Texas Commission on Environmental  
Quality  
Natural Resource Trustee Program, MC-142  
PO Box 13087  
Austin, Texas 78711-3087  
(512) 239-2238  
(512) 239-4814 (fax)

For GLO: William B. Grimes  
NRDA Resource Management  
Texas General Land Office  
P.O. Box 12873

Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

Austin, Texas 78711-2873  
(512) 475-1464  
(512) 463-5233 (fax)

For TPWD: Don Pitts  
Director  
Trustee Assessment and Restoration Program  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744  
(512) 912-7154  
(512) 912-7160 (fax)

For ATOFINA  
and Lone Wolf: Danny Kite  
Environmental Remediation Mgr  
ATOFINA Petrochemicals, Inc.  
15710 JFK Boulevard  
Houston, Texas 77032  
(281) 227-5054  
(281) 227-5055 (fax)

For Chevron: Mike Coats  
Project Manager  
Chevron Environmental Management Company  
6001 Bollinger Canyon Road  
San Ramon, California 94583-0712  
(925) 842-0466  
(925) 842-0808 (fax)

## **XII. PUBLIC PARTICIPATION**

41. This Agreement shall not be signed by the Parties until any comments received during the formal public comment period have been considered, in order to allow the Trustees to adequately consider all comments received on this Agreement.

## **XIII. MISCELLANEOUS**

42. ATOFINA, Chevron and Lone Wolf hereby certify that to the best of their knowledge and belief after careful inquiry, they have fully and accurately disclosed to the Trustees all information and data currently in the possession of ATOFINA's and Chevron's officers, employees, contractors, and agents which relates to potential natural resource damages covered under this Agreement.

43. The Trustees hereby certify that, to the best of their knowledge and belief, no other state Trustee has the right to present a claim for natural resource damages at the Col-Tex Site.



Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

44. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless survive and continue in full force and effect without being impaired or invalidated in any way.

45. The terms of this Agreement and attached exhibits may be modified only by a subsequent written agreement signed by all the Parties.

**XIV. EFFECTIVE DATE**

46. This Agreement may be executed in counterparts and becomes effective ninety (90) days from the date of the final signature.

**XV. TERMINATION**

47. This Agreement shall terminate upon ATOFINA's, Chevron's and Lone Wolf's fulfillment of the requirements specified in Sections V. and VI. and payment in full of the Trustees' past and future assessment costs as described in Paragraphs 23 and 24, as may be modified pursuant to the force majeure and/or dispute resolution provisions of this Agreement.

**XVI. SIGNATORIES**

48. Each undersigned representative of the Parties certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the party represented in this document.

[THE REST OF THIS PAGE IS INTENTIONALLY BLANK.]

Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

**FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:**

\_\_\_\_\_  
MARGARET HOFFMAN  
Executive Director

\_\_\_\_\_  
Date

Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

**FOR THE TEXAS PARKS AND WILDLIFE DEPARTMENT:**

\_\_\_\_\_  
ROBERT L. COOK  
Executive Director

\_\_\_\_\_  
Date

Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

**FOR THE GENERAL LAND OFFICE:**

\_\_\_\_\_  
LARRY R. SOWARD  
Chief Clerk and Senior Deputy Commissioner

\_\_\_\_\_  
Date

Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

**FOR CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY:**

\_\_\_\_\_  
ALLAN VANCE  
President

\_\_\_\_\_  
Date

Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

**FOR ATOFINA PETROCHEMICALS, INC.:**

\_\_\_\_\_  
RICHARD L. CHARTER  
Vice President

\_\_\_\_\_  
Date

Settlement for Natural Resource Injuries at the  
Col-Tex State Superfund Site in Colorado City, Texas

**FOR LONE WOLF LAND COMPANY:**

\_\_\_\_\_  
DANNY R. KITE, P.E.  
President

\_\_\_\_\_  
Date

**EXHIBIT I**

**Habitat Enhancement and Restoration Plan, Compensatory Restoration,  
Col-Tex Site, Colorado City, Texas (October 1, 2002)**



**EXHIBIT I**  
**HABITAT ENHANCEMENT AND RESTORATION PLAN,**  
**COMPENSATORY RESTORATION,**  
**COL-TEX SITE, COLORADO CITY, TEXAS (OCTOBER 1, 2002)**

The Final Draft Habitat Enhancement and Restoration Plan for public review is provided under separate cover. Please refer to attached document.

**EXHIBIT II**  
**Legal Description of Restoration Property**

**EXHIBIT II**  
**LEGAL DESCRIPTION OF RESTORATION PROPERTY**

The Restoration Property is defined in the metes and bounds descriptions for each of the following properties: TDCJ property, Lone Wolf Land Co. property, and ATOFINA property. Together these three parcels comprise the entire Restoration Property of approximately 85.945 acres.

**TDCJ Property**

60.790 ACRES OF LAND OUT OF SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY,  
TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 IN THE WEST LINE  
OF SAID SECTION 42 THAT IS S 12°46'57" E - 310.53' AND S 08°19'29" E - 1040.10' FROM  
THE N.W. CORNER OF A TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO  
THE STATE OF TEXAS RECORDED IN MITCHELL COUNTY PUBLIC RECORDS  
VOLUME 530 PAGE 326

THENCE: S 25°03'53" E - 205.47' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 26°16'18" E - 343.50' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 41°36'24" E - 245.34' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 49°26'49" E - 267.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 48°41'53" E - 295.13' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 53°15'05" E - 165.74' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 74°49'30" E - 164.59' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 80°21'02" E - 170.98' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 68°40'08" E - 364.96' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 51°50'34" E - 89.02' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 66°17'31" E - 100.74' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 07°17'32" E - 401.67' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 79°19'46" E - 204.16' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 86°11'46" E - 106.48' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 26°40'20" E - 72.72' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 75°58'26" E - 396.53' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 68°07'59" E - 47.08' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 75°58'19" E - 468.60' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 53°29'28" E - 143.48' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 66°22'44" E - 60.59' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 19°15'41" W - 177.97' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 28°01'43" W - 120.31' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 49°56'04" E - 62.45' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 81°32'28" E - 51.35' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 37°05'57" E - 129.23' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 17°23'47" E - 221.97' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 76°08'23" E - 335.31' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 55°22'59" E - 424.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 13°15'01" W - 27.37' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 87°20'18" E - 51.47' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 52°23'21" E - 504.69' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 83°10'05" E - 929.66' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
IN THE EAST LINE OF SAID SECTION 42  
THENCE: S 11°12'11" E - 213.82' ALONG SAID EAST LINE TO A POINT FOR THE S.E. CORNER

**EXHIBIT II, CONTINUED**  
**LEGAL DESCRIPTION OF RESTORATION PROPERTY**

OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326  
THENCE: S 88°50'17" W - 496.00' ALONG THE SOUTH LINE OF THE TRACT OF LAND  
DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326  
THENCE: S 62°12'17" W - 2002.70' ALONG SAID SOUTH LINE  
THENCE: S 77°01'31" W - 122.85' ALONG SAID SOUTH LINE  
THENCE: S 64°18'17" W - 86.00' ALONG SAID SOUTH LINE  
THENCE: S 65°34'17" W - 237.84' ALONG SAID SOUTH LINE  
THENCE: S 88°37'17" W - 132.94' ALONG SAID SOUTH LINE  
THENCE: S 64°25'04" W - 209.92' ALONG SAID SOUTH LINE TO A SET 1/2" IRON PIN WITH  
CAP MARKED MORRIS 2426 IN THE NORTH RIGHT OF WAY OF BUSINESS LOOP 20 FOR  
THE MOST SOUTHERLY CORNER OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN  
SAID VOLUME 530 PAGE 326  
THENCE: N 83°38'02" W - 1871.53' ALONG SAID NORTH RIGHT OF WAY TO A SET 1/2" IRON  
PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 72°19'12" W - 101.98' ALONG SAID NORTH RIGHT OF WAY TO A FOUND  
CONCRETE RIGHT OF WAY MONUMENT  
THENCE: N 83°40'21" W - 246.87' TO A FOUND 1/2" IRON PIN IN THE WEST LINE OF SAID  
SECTION 42 FOR THE S.E. CORNER OF THE TRACT DESCRIBED AS TRACT 2 IN SAID  
VOLUME 530 PAGE 326  
THENCE: N 08°19'29" W - 1660.23' ALONG SAID WEST LINE TO THE POINT OF BEGINNING  
AND CONTAINING 60.790 ACRES OF LAND MORE OR LESS.

**EXHIBIT II, CONTINUED**  
**LEGAL DESCRIPTION OF RESTORATION PROPERTY**

**Lone Wolf Land Company Property**

17.834 ACRES OF LAND OUT OF THE WEST COLORADO ADDITION (MITCHELL COUNTY PLAT RECORDS SLIDES 48 & 49) MITCHELL COUNTY, TEXAS, AND SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 IN THE NORTH  
RIGHT OF WAY OF BUSINESS LOOP 20 FOR THE MOST SOUTHERLY CORNER OF THE  
TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO THE STATE OF TEXAS  
RECORDED IN MITCHELL COUNTY PUBLIC RECORDS VOLUME 530 PAGE 326  
THENCE: N 64°25'04" E - 209.92' ALONG THE SOUTH LINE OF THE TRACT OF LAND  
DESCRIBED IN SAID VOLUME 530 PAGE 326  
THENCE: N 88°37'17" E - 132.94' ALONG SAID SOUTH LINE  
THENCE: N 65°34'17" E - 237.84' ALONG SAID SOUTH LINE  
THENCE: N 64°18'17" E - 86.00' ALONG SAID SOUTH LINE  
THENCE: N 77°01'31" E - 122.85' ALONG SAID SOUTH LINE  
THENCE: N 62°12'17" E - 2002.70' ALONG SAID SOUTH LINE  
THENCE: S 11°00'02" E - 293.37' TO A POINT  
THENCE: N 87°26'29" W - 135.85' TO A POINT  
THENCE: S 02°09'16" W - 261.96' TO A POINT  
THENCE: N 87°35'12" W - 15.45' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 00°00'17" E - 58.47' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 89°59'51" W - 61.62' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 00°00'30" W - 55.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 89°02'53" W - 47.00' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 11°09'13" E - 34.50' TO A FOUND 1/2" IRON PIN  
THENCE: N 84°09'52" W - 62.92' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR  
THE N.E. CORNER OF LOT 12, BLOCK 8, OF SAID WEST COLORADO ADDITION  
THENCE: S 11°40'55" E - 157.24' TO A FOUND 1/2" IRON PIN FOR THE S.E. CORNER OF LOT 14,  
BLOCK 8, OF SAID WEST COLORADO ADDITION  
THENCE: N 84°13'42" W - 414.84' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
FOR THE N.E. CORNER OF LOT 5, BLOCK 9, OF SAID WEST COLORADO ADDITION  
THENCE: S 05°46'18" W - 330.00' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
FOR THE S.E. CORNER OF LOT 13, BLOCK 6, OF SAID WEST COLORADO ADDITION  
THENCE: N 84°13'42" W - 860.41' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 61°41'51" W - 240.96' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
FOR THE S.W. CORNER OF LOT 16, BLOCK 4, OF SAID WEST COLORADO ADDITION  
THENCE: S 05°37'50" W - 197.69' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 84°33'49" W - 100.41' TO A FOUND 1/2" IRON PIN FOR THE N.E. CORNER OF A  
TRACT OF LAND DESCRIBED IN A DEED TO MITCHELL COUNTY RECORDED IN  
MITCHELL COUNTY DEED RECORDS VOLUME 77 PAGE 482  
THENCE: N 85°57'26" W - 125.86' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
FOR THE N.W. CORNER OF A TRACT OF LAND DESCRIBED IN A DEED TO KELLEY  
RECORDED IN MITCHELL COUNTY DEED RECORDS VOLUME 262 PAGE 303  
THENCE: S 09°52'51" W - 61.22' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 IN  
THE NORTH RIGHT OF WAY OF BUSINESS LOOP 20  
THENCE: N 76°32'07" W - 224.39' ALONG SAID NORTH RIGHT OF WAY TO A FOUND 1/2" IRON  
PIN  
THENCE: N 83°45'14" W - 283.84' ALONG SAID NORTH RIGHT OF WAY TO THE POINT OF  
BEGINNING AND CONTAINING 17.834 ACRES OF LAND MORE OR LESS.

**EXHIBIT II, CONTINUED**  
**LEGAL DESCRIPTION OF RESTORATION PROPERTY**

**ATOFINA Petrochemicals Inc. Property**

7.321 ACRES OF LAND OUT OF SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A POINT IN THE EAST LINE OF SAID SECTION 42 FOR THE SOUTHEAST CORNER OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO THE STATE OF TEXAS RECORDED IN MITCHELL COUNTY PUBLIC RECORDS VOLUME 530 PAGE 326

THENCE: S 11°00'02" E - 510.48' ALONG SAID EAST LINE TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 89°59'55" W - 82.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 00°00'03" E - 77.94' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 87°35'12" W - 600.54' TO A POINT

THENCE: N 02°09'16" E - 261.96' TO A POINT

THENCE: S 87°26'29" E - 135.85' TO A POINT

THENCE: N 11°00'02" W - 293.37' TO A POINT IN THE SOUTH LINE OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326

THENCE: N 88°50'17" E - 496.00' ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING AND CONTAINING 7.321 ACRES OF LAND MORE OR LESS.

**EXHIBIT III**  
**Withdrawal Memorandum from U.S. Fish and Wildlife Service**



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

P.O. Box 1306

Albuquerque, New Mexico 87103

In Reply Refer To:  
Region 2/ES-EC

SEP-13 1996

### Memorandum

To: Regional Environmental Officer, DOI, Albuquerque, NM

From: ~~Acting~~ Regional Director, Region 2

Subject: Col-Tex Natural Resource Damage Assessment

The Fish and Wildlife Service has evaluated the information available on the Col-Tex Superfund site near Colorado City, Texas. This site operated as a petroleum refinery until 1969, and the hazardous substances found there reflect this activity. In 1991, some dead migratory birds were found in uncovered oil pits on the site, but these pits have since been covered. Other impacts to migratory birds are likely, and will be evaluated by the Texas Parks and Wildlife Department, our co-trustee for migratory birds in Texas.

Due to staffing limitations, we have elected to not participate further in this damage assessment case. We will, however, act in a supportive role to the Texas Parks and Wildlife Department for the investigation of damages and restoration of migratory bird habitat.

Please contact Stephen Robertson, Acting Regional Natural Resource Damage Assessment Coordinator, at (505) 248-6669, or Jana Grote, Ecological Services Field Office, Austin, Texas, at (512) 339-9617, regarding any questions relating to this matter.

*Lyn B. Stamer*

cc: Director, FWS, Washington D.C. (AES/EC)  
Regional Solicitor, DOI, Albuquerque, NM  
Field Solicitor, DOI, Tulsa, Oklahoma (Attn: Martin Steinmetz)  
~~Natural Resource Trustee Program, Texas Natural Resources Conservation~~  
~~Commission, Austin, TX (Attn: Richard Seiler)~~  
Geographic Manager, Region 2 (T/L/E/E)  
Supervisor, Ecological Services Field Office, Austin TX



**EXHIBIT IV**  
**Legal Description of Property (17 Acres) Contiguous to Restoration Property**

**EXHIBIT IV**  
**LEGAL DESCRIPTION OF PROPERTY (17 ACRES)**  
**CONTIGUOUS TO RESTORATION PROPERTY**

16.930 ACRES OF LAND OUT OF SECTION 31, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS AND SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A FOUND 1/2" IRON PIN IN THE SOUTH RIGHT OF WAY OF INTERSTATE 20 FOR THE N.W. CORNER OF A TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO THE STATE OF TEXAS RECORDED IN MITCHELL COUNTY PUBLIC RECORDS VOLUME 530 PAGE 326

THENCE: N 59°17'25" E - 171.92' ALONG SAID SOUTH RIGHT OF WAY TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 03°58'41" E - 66.74' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 18°25'29" E - 217.73' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 01°56'53" W - 56.92' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 59°51'22" W - 118.22' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 40°09'52" W - 43.43' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 21°44'43" E - 204.92' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 19°59'48" E - 432.21' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 20°57'42" E - 176.72' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 14°15'57" E - 212.62' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 23°07'38" E - 62.25' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 30°35'45" E - 260.93' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 33°24'03" E - 154.27' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 66°40'53" E - 150.44' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 01°58'29" W - 40.31' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 42°58'08" E - 533.59' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 57°41'47" E - 149.42' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 67°21'50" E - 25.34' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 04°33'01" E - 34.12' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 82°24'00" E - 511.40' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 00°11'26" E - 69.14' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 34°25'32" E - 99.28' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 03°37'45" E - 112.40' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 75°28'00" E - 171.60' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 07°17'32" W - 401.67' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 66°17'31" W - 100.74' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 51°50'34" W - 89.02' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 68°40'08" W - 364.96' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 80°21'02" W - 170.98' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 74°49'30" W - 164.59' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 53°15'05" W - 165.74' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 48°41'53" W - 295.13' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 49°26'49" W - 267.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 41°36'24" W - 245.34' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 26°16'18" W - 343.50' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 25°03'53" W - 205.47' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

IN THE WEST LINE OF SAID SECTION 42

THENCE: N 08°19'29" W - 1040.10' ALONG SAID WEST LINE TO A FOUND 2" IRON PIPE FOR THE N.W. CORNER OF SAID SECTION 42

THENCE: N 12°46'57" W - 310.53' ALONG THE WEST LINE OF SAID SECTION 31 TO THE POINT OF BEGINNING AND CONTAINING 16.930 ACRES OF LAND MORE OR LESS.

**EXHIBIT V**  
**Texas Legislature HB 2859**

1-1 AN ACT  
1-2 relating to authorizing the Texas Board of Criminal Justice to  
1-3 grant a conservation easement covering certain state property.  
1-4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-5 SECTION 1. (a) Not later than January 31, 2002, the Texas  
1-6 Board of Criminal Justice shall grant to the Natural Area  
1-7 Preservation Association, Inc., a conservation easement covering  
1-8 the real property described by Subsection (e) of this section. If  
1-9 the Natural Area Preservation Association, Inc., is unable or  
1-10 refuses to accept the grant of the easement, the board may grant  
1-11 the easement to another suitable person.  
1-12 (b) Consideration for the grant of an easement under  
1-13 Subsection (a) of this section may be in the form of an agreement  
1-14 between the parties that requires the easement holder to use the  
1-15 easement in a manner that primarily promotes a public purpose of  
1-16 the state. If the consideration for the transfer is in the form of  
1-17 an agreement described by this subsection:  
1-18 (1) the easement holder must use the easement in a  
1-19 manner that primarily promotes a public interest of the state; and  
1-20 (2) if the easement holder fails to use the easement  
1-21 in that manner, the easement is automatically terminated, and the  
1-22 Texas Board of Criminal Justice may grant the easement to another  
1-23 person under this Act.  
1-24 (c) The Texas Board of Criminal Justice shall grant the

**EXHIBIT V, CONTINUED**  
**TEXAS LEGISLATURE HB 2859**

2-1 easement by an appropriate instrument of transfer. If the  
2-2 consideration for the easement is in the form of an agreement  
2-3 described by Subsection (b) of this section, the instrument of  
2-4 transfer must include a provision that:  
2-5 (1) requires the easement holder to use the easement  
2-6 in a manner that primarily promotes a public purpose of the state;  
2-7 and  
2-8 (2) indicates that the easement automatically  
2-9 terminates if the easement holder fails to use the easement in that  
2-10 manner.  
2-11 (d) The Texas Natural Resource Conservation Commission, the  
2-12 Parks and Wildlife Department, and the General Land Office shall  
2-13 enforce an easement granted under this Act.  
2-14 (e) The real property to which Subsection (a) of this  
2-15 section refers is described as follows:  
2-16 77.723 ACRES OF LAND OUT OF SECTION 31, BLOCK 26, T&P RY. CO.  
2-17 SURVEYS, MITCHELL COUNTY, TEXAS AND SECTION 42, BLOCK 26, T&P RY.  
2-18 CO. SURVEYS, MITCHELL COUNTY, TEXAS. DESCRIBED FURTHER BY METES  
2-19 AND BOUNDS AS FOLLOWS:  
2-20 BEGINNING: AT A FOUND 1/2" IRON PIN IN THE SOUTH RIGHT OF WAY OF  
2-21 INTERSTATE 20 FOR THE N.W. CORNER OF A TRACT OF LAND DESCRIBED AS  
2-22 TRACT 2 IN A DEED TO THE STATE OF TEXAS RECORDED IN MITCHELL COUNTY  
2-23 PUBLIC RECORDS VOLUME 530 PAGE 326  
2-24 THENCE: N 59 17'25"E-171.92' ALONG SAID SOUTH RIGHT OF WAY TO A  
2-25 SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
2-26 THENCE: S 03 58'41"E-66.74' TO A SET 1/2" IRON PIN WITH CAP MARKED  
2-27 MORRIS 2426

**EXHIBIT V, CONTINUED**  
**TEXAS LEGISLATURE HB 2859**

3-1      THENCE: S 18 25'29"E-217.73' TO A SET 1/2" IRON PIN WITH CAP  
3-2      MARKED MORRIS 2426  
3-3      THENCE: S 01 56'53"W-56.92' TO A SET 1/2" IRON PIN WITH CAP MARKED  
3-4      MORRIS 2426  
3-5      THENCE: S 59 51'22"W-118.22' TO A SET 1/2" IRON PIN WITH CAP  
3-6      MARKED MORRIS 2426  
3-7      THENCE: S 40 09'52"W-43.43' TO A SET 1/2" IRON PIN WITH CAP MARKED  
3-8      MORRIS 2426  
3-9      THENCE: S 21 44'43"E-204.92' TO A SET 1/2" IRON PIN WITH CAP  
3-10     MARKED MORRIS 2426  
3-11     THENCE: S 19 59'48"E-432.21' TO A SET 1/2" IRON PIN WITH CAP  
3-12     MARKED MORRIS 2426  
3-13     THENCE: S 20 57'42"E-176.72' TO A SET 1/2" IRON PIN WITH CAP  
3-14     MARKED MORRIS 2426  
3-15     THENCE: S 14 15'57"E-212.62' TO A SET 1/2" IRON PIN WITH CAP  
3-16     MARKED MORRIS 2426  
3-17     THENCE: S 23 07'38"E-62.25' TO A SET 1/2" IRON PIN WITH CAP MARKED  
3-18     MORRIS 2426  
3-19     THENCE: S 30 35'45"E-260.93' TO A SET 1/2" IRON PIN WITH CAP  
3-20     MARKED MORRIS 2426  
3-21     THENCE: S 33 24'03"E-154.27' TO A SET 1/2" IRON PIN WITH CAP  
3-22     MARKED MORRIS 2426  
3-23     THENCE: S 66 40'53"E-150.44' TO A SET 1/2" IRON PIN WITH CAP  
3-24     MARKED MORRIS 2426  
3-25     THENCE: S 01 58'29"W-40.31' TO A SET 1/2" IRON PIN WITH CAP MARKED  
3-26     MORRIS 2426  
3-27     THENCE: S 42 58'08"E-533.59' TO A SET 1/2" IRON PIN WITH CAP

**EXHIBIT V, CONTINUED**  
**TEXAS LEGISLATURE HB 2859**

4-1 MARKED MORRIS 2426  
4-2 THENCE: S 57 41'47"E-149.42' TO A SET 1/2" IRON PIN WITH CAP  
4-3 MARKED MORRIS 2426  
4-4 THENCE: N 67 21'50"E-25.34' TO A SET 1/2" IRON PIN WITH CAP MARKED  
4-5 MORRIS 2426  
4-6 THENCE: S 04 33'01"E-34.12' TO A SET 1/2" IRON PIN WITH CAP MARKED  
4-7 MORRIS 2426  
4-8 THENCE: S 82 24'00"E-511.40' TO A SET 1/2" IRON PIN WITH CAP  
4-9 MARKED MORRIS 2426  
4-10 THENCE: N 00 11'26"E-69.14' TO A SET 1/2" IRON PIN WITH CAP MARKED  
4-11 MORRIS 2426  
4-12 THENCE: N 34 25'32"E-99.28' TO A SET 1/2" IRON PIN WITH CAP MARKED  
4-13 MORRIS 2426  
4-14 THENCE: S 03 37'45"E-112.40' TO A SET 1/2" IRON PIN WITH CAP  
4-15 MARKED MORRIS 2426  
4-16 THENCE: S 75 28'00"E-171.60' TO A SET 1/2" IRON PIN WITH CAP  
4-17 MARKED MORRIS 2426  
4-18 THENCE: S 03 37'45"E-112.40' TO A SET 1/2" IRON PIN WITH CAP  
4-19 MARKED MORRIS 2426  
4-20 THENCE: S 79 19'46"E-204.16' TO A SET 1/2" IRON PIN WITH CAP  
4-21 MARKED MORRIS 2426  
4-22 THENCE: N 86 11'46"E-106.48' TO A SET 1/2" IRON PIN WITH CAP  
4-23 MARKED MORRIS 2426  
4-24 THENCE: S 26 40'20"E-72.72' TO A SET 1/2" IRON PIN WITH CAP MARKED  
4-25 MORRIS 2426  
4-26 THENCE: S 75 58'26"E-396.53' TO A SET 1/2" IRON PIN WITH CAP  
4-27 MARKED MORRIS 2426

**EXHIBIT V, CONTINUED**  
**TEXAS LEGISLATURE HB 2859**

5-1      THENCE: N 68 07'59"E-47.08' TO A SET 1/2" IRON PIN WITH CAP MARKED  
5-2      MORRIS 2426  
5-3      THENCE: S 75 58'19"E-468.60' TO A SET 1/2" IRON PIN WITH CAP  
5-4      MARKED MORRIS 2426  
5-5      THENCE: N 53 29'28"E-143.48' TO A SET 1/2" IRON PIN WITH CAP  
5-6      MARKED MORRIS 2426  
5-7      THENCE: S 66 22'44"E-60.59' TO A SET 1/2" IRON PIN WITH CAP MARKED  
5-8      MORRIS 2426  
5-9      THENCE: N 19 15'41"W-177.97' TO A SET 1/2" IRON PIN WITH CAP  
5-10     MARKED MORRIS 2426  
5-11     THENCE: N 28 01'43"W-120.31' TO A SET 1/2" IRON PIN WITH CAP  
5-12     MARKED MORRIS 2426  
5-13     THENCE: N 49 56'04"E-62.45' TO A SET 1/2" IRON PIN WITH CAP MARKED  
5-14     MORRIS 2426  
5-15     THENCE: N 81 32'28"E-51.35' TO A SET 1/2" IRON PIN WITH CAP MARKED  
5-16     MORRIS 2426  
5-17     THENCE: S 37 05'57"E-129.23' TO A SET 1/2" IRON PIN WITH CAP  
5-18     MARKED MORRIS 2426  
5-19     THENCE: S 17 23'47"E-221.97' TO A SET 1/2" IRON PIN WITH CAP  
5-20     MARKED MORRIS 2426  
5-21     THENCE: N 76 08'23"E-335.31' TO A SET 1/2" IRON PIN WITH CAP  
5-22     MARKED MORRIS 2426  
5-23     THENCE: N 55 22'59"E-424.88' TO A SET 1/2" IRON PIN WITH CAP  
5-24     MARKED MORRIS 2426  
5-25     THENCE: N 13 15'01"W-27.37' TO A SET 1/2" IRON PIN WITH CAP MARKED  
5-26     MORRIS 2426  
5-27     THENCE: N 87 20'18"E-51.47' TO A SET 1/2" IRON PIN WITH CAP MARKED



**EXHIBIT V, CONTINUED**  
**TEXAS LEGISLATURE HB 2859**

6-1 MORRIS 2426  
6-2 THENCE: N 52 23'21"E-504.69' TO A SET 1/2" IRON PIN WITH CAP  
6-3 MARKED MORRIS 2426  
6-4 THENCE: N 83 10'05"E-929.66' TO A SET 1/2" IRON PIN WITH CAP  
6-5 MARKED MORRIS 2426 IN THE EAST LINE OF SAID SECTION 42  
6-6 THENCE: S 11 12'11"E-213.82' ALONG SAID EAST LINE TO A POINT FOR  
6-7 THE S.E. CORNER OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN SAID  
6-8 VOLUME 530 PAGE 326  
6-9 THENCE: S 88 50'17"W-496.00' ALONG THE SOUTH LINE OF THE TRACT OF  
6-10 LAND DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326  
6-11 THENCE: S 62 12'17"W-2002.70' ALONG SAID SOUTH LINE  
6-12 THENCE: S 77 01'31"W-122.85' ALONG SAID SOUTH LINE  
6-13 THENCE: S 64 18'17"W-86.00' ALONG SAID SOUTH LINE  
6-14 THENCE: S 65 34'17"W-237.84' ALONG SAID SOUTH LINE  
6-15 THENCE: S 88 37'17"W-132.94' ALONG SAID SOUTH LINE  
6-16 THENCE: S 64 25'04"W-209.92' TO A SET 1/2" IRON PIN WITH CAP  
6-17 MARKED MORRIS 2426 IN THE NORTH RIGHT OF WAY OF BUSINESS LOOP 20  
6-18 FOR THE MOST SOUTHERLY CORNER OF THE TRACT OF LAND DESCRIBED AS  
6-19 TRACT 2 IN SAID VOLUME 530 PAGE 326  
6-20 THENCE: N 83 38'02"W-1871.53' ALONG SAID NORTH RIGHT OF WAY TO A  
6-21 SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
6-22 THENCE: N 72 19'12"W-101.98' ALONG SAID NORTH RIGHT OF WAY TO A  
6-23 FOUND CONCRETE RIGHT OF WAY MONUMENT  
6-24 THENCE: N 83 40'21"W-246.87' ALONG SAID NORTH RIGHT OF WAY TO A  
6-25 FOUND 1/2" IRON PIN IN THE WEST LINE OF SAID SECTION 42 FOR THE  
6-26 S.W. CORNER OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN SAID  
6-27 VOLUME 530 PAGE 326

**EXHIBIT V, CONTINUED**  
**TEXAS LEGISLATURE HB 2859**

7-1      THENCE: N 08 19'29"W-2700.33' ALONG SAID WEST LINE TO A FOUND 2"  
7-2      IRON PIPE FOR THE N.W. CORNER OF SAID SECTION 42  
7-3      THENCE: N 12 46'57"W-310.53' TO THE POINT OF BEGINNING AND  
7-4      CONTAINING 77.723 ACRES OF LAND MORE OR LESS.  
7-5      SECTION 2. This Act takes effect immediately if it receives  
7-6      a vote of two-thirds of all the members elected to each house, as  
7-7      provided by Section 39, Article III, Texas Constitution. If this  
7-8      Act does not receive the vote necessary for immediate effect, this  
7-9      Act takes effect September 1, 2001.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 2859 was passed by the House on May 5, 2001, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 2859 was passed by the Senate on May 22, 2001, by the following vote: Yeas 30, Nays 0, 1 present, not voting.

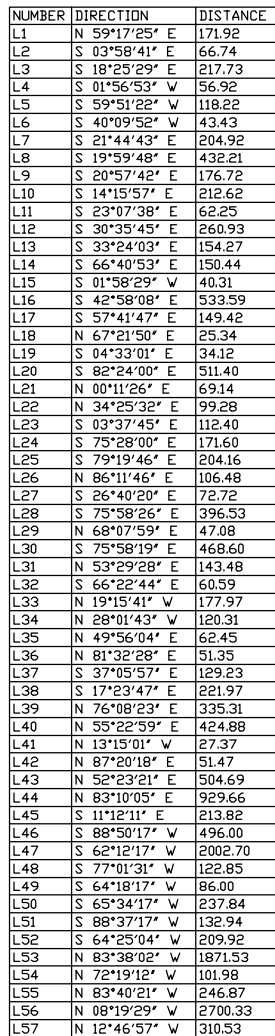
\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

**EXHIBIT VI**  
**Maps of Property Ownership and Conservation Areas**



6-274

**NOTES:**

**1. RESTRICTIONS ON USE AND DISSEMINATION:**  
FOR VALUE RECEIVED, STANLEY MORRIS ENGINEERING HAS PREPARED THIS SURVEY PLAN FOR THE EXCLUSIVE USE OF THE STATE OF TEXAS ACCORDING TO THE TERMS AND COVENANTS OF THE AGREEMENT. USE OR RELIANCE ON THIS SURVEY PLAN BY ANY PARTY OTHER THAN THE STATE OF TEXAS AND ITS LEGAL REPRESENTATIVES IS FORBIDDEN WITHOUT PERMISSION IN WRITING FROM STANLEY MORRIS, WHOSE SEAL AND NAME ARE SHOWN ON THE PLAN.

**2. EASEMENTS:**  
THIS SURVEY WAS MADE WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT AND OTHER EASEMENTS OR RESTRICTIONS MAY APPLY.

**3. BEARING REFERENCE:**  
BEARINGS ARE BASED ON THE SOUTH RIGHT OF WAY OF INTER-STATE 20 AT N 59° 17' 52" E

**4. SURVEY VALIDITY:**  
THIS SURVEY SHOULD NOT BE CONSIDERED VALID UNLESS IT CONTAINS THE SURVEYORS SEAL AND ORIGINAL SIGNATURE.

SURVEY OF

17.834 ACRES OF LAND OUT OF THE WEST COLORADO ADDITION (MITCHELL COUNTY PLAT RECORDS SLIDES 48 & 49) MITCHELL COUNTY, TEXAS, AND SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 IN THE NORTH RIGHT OF WAY OF BUSINESS LOOP 20 FOR THE MOST SOUTHERLY CORNER OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO THE STATE OF TEXAS RECORDED IN MITCHELL COUNTY PUBLIC RECORDS VOLUME 530 PAGE 326

THENCE: N 64°25'04" E — 209.92' ALONG THE SOUTH LINE OF THE TRACT OF LAND DESCRIBED IN SAID VOLUME 530 PAGE 326

THENCE: N 88°37'17" E — 132.94' ALONG SAID SOUTH LINE

THENCE: N 65°34'17" E — 237.84' ALONG SAID SOUTH LINE

THENCE: N 64°18'17" E — 86.00' ALONG SAID SOUTH LINE

THENCE: N 77°01'31" E — 122.85' ALONG SAID SOUTH LINE

THENCE: N 62°12'17" E — 2002.70' ALONG SAID SOUTH LINE

THENCE: S 11°00'02" E — 293.37' TO A POINT

THENCE: N 87°26'29" W — 135.85' TO A POINT

THENCE: S 02°09'16" W — 261.96' TO A POINT

THENCE: N 87°35'12" W — 15.45' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 00°00'17" E — 58.47' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 89°59'51" W — 61.62' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 00°00'30" W — 55.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 89°02'53" W — 47.00' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 11°09'13" E — 34.50' TO A FOUND 1/2" IRON PIN

THENCE: N 84°09'52" W — 62.92' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE N.E. CORNER OF LOT 12, BLOCK 8, OF SAID WEST COLORADO ADDITION

THENCE: S 11°40'55" E — 157.24' TO A FOUND 1/2" IRON PIN FOR THE S.E. CORNER OF LOT 14, BLOCK 8, OF SAID WEST COLORADO ADDITION

THENCE: N 84°13'42" W — 414.84' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE N.E. CORNER OF LOT 5, BLOCK 9, OF SAID WEST COLORADO ADDITION

THENCE: S 05°46'18" W — 330.00' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE S.E. CORNER OF LOT 13, BLOCK 6, OF SAID WEST COLORADO ADDITION

THENCE: N 84°13'42" W — 860.41' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE S.W. CORNER OF LOT 16, BLOCK 4, OF SAID WEST COLORADO ADDITION

THENCE: S 05°37'50" W — 197.69' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 84°33'49" W — 100.41' TO A FOUND 1/2" IRON PIN FOR THE N.E. CORNER OF A TRACT OF LAND DESCRIBED IN A DEED TO MITCHELL COUNTY RECORDED IN MITCHELL COUNTY DEED RECORDS VOLUME 77 PAGE 482

THENCE: N 85°57'26" W — 125.86' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE N.W. CORNER OF A TRACT OF LAND DESCRIBED IN A DEED TO KELLEY RECORDED IN MITCHELL COUNTY DEED RECORDS VOLUME 262 PAGE 303

THENCE: S 09°52'51" W — 61.22' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 IN THE NORTH RIGHT OF WAY OF BUSINESS LOOP 20

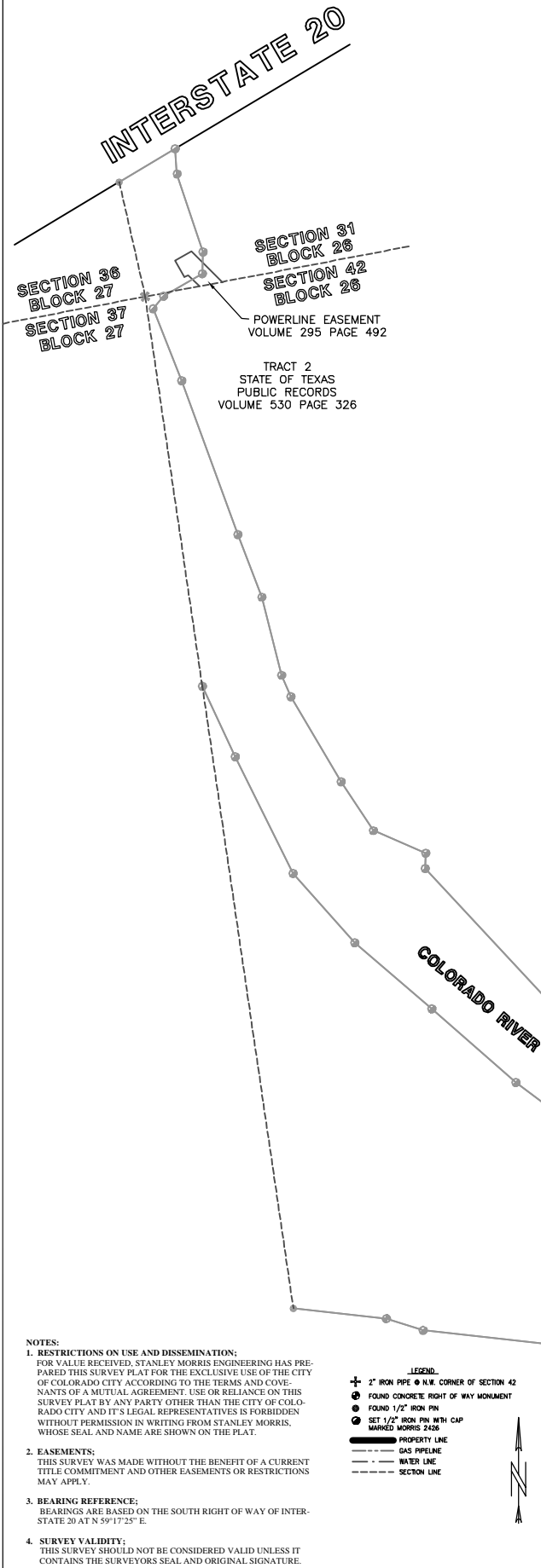
THENCE: N 76°32'07" W — 224.39' ALONG SAID NORTH RIGHT OF WAY TO A FOUND 1/2" IRON PIN

THENCE: N 83°45'14" W — 283.84' ALONG SAID NORTH RIGHT OF WAY TO THE POINT OF BEGINNING AND CONTAINING 17.834 ACRES OF LAND MORE OR LESS.

I HEREBY CERTIFY THAT I HAVE MADE THE ABOVE SURVEYS ON THE GROUND OCTOBER, 2000 AND THAT SAID SURVEYS ARE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

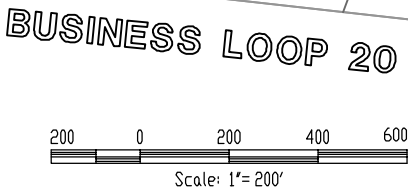
STANLEY MORRIS  
R.P.L.S. 2426  
NOVEMBER 29, 2000

NUMBER	DIRECTION	DISTANCE
L1	N 64°25'04" E	209.92
L2	N 88°37'17" E	132.94
L3	N 65°34'17" E	237.84
L4	N 64°18'17" E	86.00
L5	N 77°01'31" E	122.85
L6	N 62°12'17" E	2002.70
L7	S 11°00'02" E	293.37
L8	N 87°26'29" W	135.85
L9	S 02°09'16" W	261.96
L10	N 87°35'12" W	15.45
L11	N 00°00'17" E	58.47
L12	N 89°59'51" W	61.62
L13	S 00°00'30" W	55.88
L14	N 89°02'53" W	47.00
L15	S 11°09'13" E	34.50
L16	N 84°09'52" W	62.92
L17	S 11°40'55" E	157.24
L18	N 84°13'42" W	414.84
L19	S 05°46'18" W	330.00
L20	N 84°13'42" W	860.41
L21	S 61°41'51" W	240.96
L22	S 05°37'50" W	197.69
L23	N 84°33'49" W	100.41
L24	N 85°57'26" W	125.86
L25	S 09°52'51" W	61.22
L26	N 76°32'07" W	224.39
L27	N 83°45'14" W	283.84



- NOTES:
- RESTRICTIONS ON USE AND DISSEMINATION:  
FOR VALUE RECEIVED, STANLEY MORRIS ENGINEERING HAS PREPARED THIS SURVEY PLAT FOR THE EXCLUSIVE USE OF THE CITY OF COLORADO CITY ACCORDING TO THE TERMS AND COVENANTS OF A MUTUAL AGREEMENT. USE OR RELIANCE ON THIS SURVEY PLAT BY ANY PARTY OTHER THAN THE CITY OF COLORADO CITY AND ITS LEGAL REPRESENTATIVES IS FORBIDDEN WITHOUT PERMISSION IN WRITING FROM STANLEY MORRIS, WHOSE SEAL AND NAME ARE SHOWN ON THE PLAT.
  - EASEMENTS:  
THIS SURVEY WAS MADE WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT AND OTHER EASEMENTS OR RESTRICTIONS MAY APPLY.
  - BEARING REFERENCE:  
BEARINGS ARE BASED ON THE SOUTH RIGHT OF WAY OF INTERSTATE 20 AT N 59°17'25" E.
  - SURVEY VALIDITY:  
THIS SURVEY SHOULD NOT BE CONSIDERED VALID UNLESS IT CONTAINS THE SURVEYORS SEAL AND ORIGINAL SIGNATURE.

- LEGEND:
- 2" IRON PIPE @ N.W. CORNER OF SECTION 42
  - FOUND CONCRETE RIGHT OF WAY MONUMENT
  - FOUND 1/2" IRON PIN
  - SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426
  - PROPERTY LINE
  - GAS PIPELINE
  - WATER LINE
  - SECTION LINE

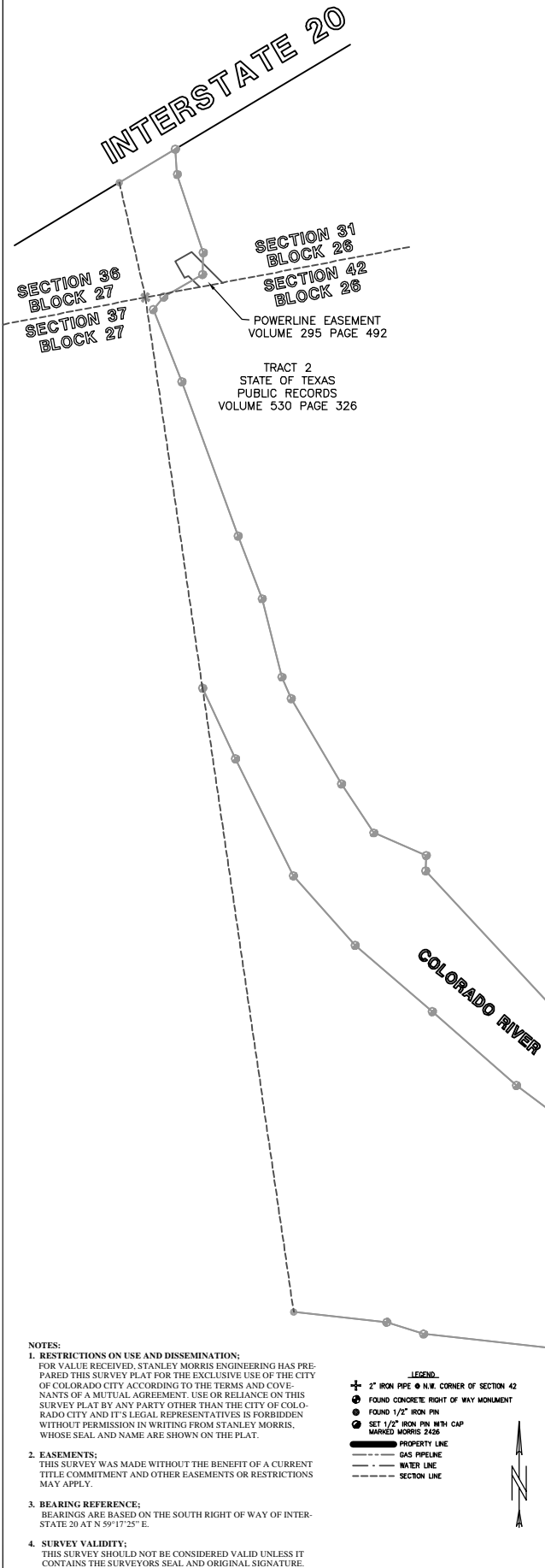


807 EAST BROADWAY  
SWEETWATER, TEXAS 75556  
915-235-8618  
915-235-9886 FAX

COLORADO CITY  
WILDLIFE PRESERVE

LONE WOLF LAND COMPANY  
PROPERTY

SHT. NO. 1  
PLAT# 6-274



7.321 ACRES OF LAND OUT OF SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A POINT IN THE EAST LINE OF SAID SECTION 42 FOR THE SOUTHEAST CORNER OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO THE STATE OF TEXAS RECORDED IN MITCHELL COUNTY PUBLIC RECORDS VOLUME 530 PAGE 326

THENCE: S 11°00'02" E - 510.48' ALONG SAID EAST LINE TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 89°59'55" W - 82.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 00°00'03" E - 77.94' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 87°35'12" W - 600.54' TO A POINT

THENCE: N 02°09'16" E - 261.96' TO A POINT

THENCE: S 87°26'29" E - 135.85' TO A POINT

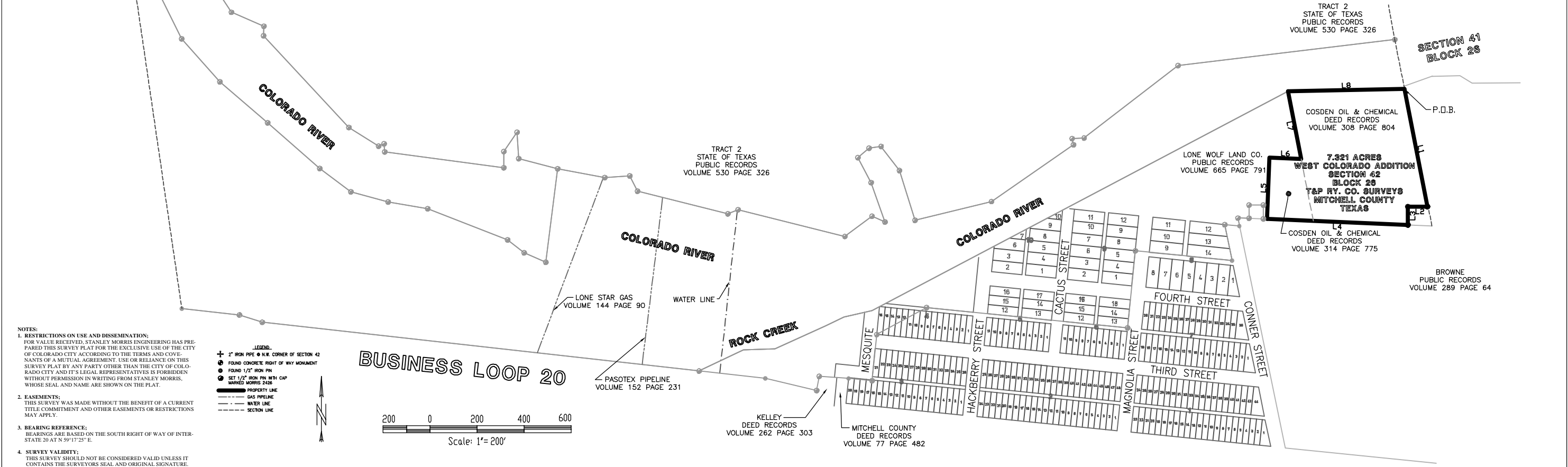
THENCE: N 11°00'02" W - 293.37' TO A POINT IN THE SOUTH LINE OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326

THENCE: N 88°50'17" E - 496.00' ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING AND CONTAINING 7.321 ACRES OF LAND MORE OR LESS.

I HEREBY CERTIFY THAT I HAVE MADE THE ABOVE SURVEYS ON THE GROUND OCTOBER, 2000 AND THAT SAID SURVEYS ARE CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

STANLEY MORRIS  
R.P.L.S. 2426  
NOVEMBER 28, 2000

NUMBER	DIRECTION	DISTANCE
L1	S 11°00'02" E	510.48
L2	S 89°59'55" W	82.88
L3	S 00°00'03" E	77.94
L4	N 87°35'12" W	600.54
L5	N 02°09'16" E	261.96
L6	S 87°26'29" E	135.85
L7	N 11°00'02" W	293.37
L8	N 88°50'17" E	496.00



**EXHIBIT VII**  
**Draft Conservation Easement for Property Owned by the**  
**Texas Department of Criminal Justice**

**EXHIBIT VII**  
**CONSERVATION EASEMENT**

STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS
COUNTY OF MITCHELL	§	

1. The TEXAS BOARD OF CRIMINAL JUSTICE (“GRANTOR”), acting by its duly authorized Chairman by virtue of the authority granted by House Bill 2859, 77<sup>th</sup> Legislature, R.S., 2001 (the “Act”), for and in consideration of these presents, hereby grants unto the NATURAL AREA PRESERVATION ASSOCIATION, INC. (“GRANTEE”) a Conservation Easement covering an area of 77.723 acres of land, Mitchell County, Texas, and more fully described by a metes and bounds description attached as Exhibit “A” (hereinafter referred to as the “Protected Property”).
2. This is a permanent easement.
3. This Conservation Easement is hereby granted to Grantee by Grantor and is hereby accepted by Grantee pursuant to the terms and conditions set forth herein.
4. A plat of the Protected Property is attached hereto as Exhibit “B” and hereby made a part of this Conservation Easement.
5. The grant of this Conservation Easement to Grantee is for the purpose of preserving and protecting the natural, scenic and open space values of the Protected Property. It is understood and agreed that neither the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, nor any of their agents or employees shall be responsible for the enforcement of the provisions of Section 5 of this Conservation Easement, such enforcement rights being the responsibility of Grantee and any third party possessing enforcement rights granted herein. Except as necessary to implement or otherwise comply with the approved “Habitat Enhancement and Restoration Plan, Compensatory Restoration, Col-Tex Site, Colorado City, Texas” (hereinafter referred to as the “Restoration Plan”) which is incorporated herein by reference (the Restoration Plan Executive Summary being attached hereto as Exhibit “C”), and without limiting the generality of the foregoing purpose, the following activities by any person (including organizations of persons) on the Protected Property are prohibited:
  - 5.1 Construction or installation of any utilities, structures, drainage facilities, mitigation areas, or placement of any materials, on, below, or above ground, except as necessary for maintenance of any pre-existing easements and rights-of-way;
  - 5.2 Application of any pesticide, herbicide, or fertilizer except as otherwise provided for in this Conservation Easement, the Restoration Plan or as necessary for maintenance of any pre-existing easements and rights-of-way;
  - 5.3 Disposal of any additional trash or waste materials;
  - 5.4 Removal or destruction of vegetation except for removal of non-native species in a manner not inconsistent with the Restoration Plan;



- 5.5 Residential or agricultural uses, including raising or harvesting of crops, grazing livestock, or confinement of domesticated animals;
  - 5.6 Operations of bicycles, dune buggies, motorcycles, all terrain or off-road vehicles, or other type of mechanized vehicles except on any designated parking areas or as necessary for maintenance of any pre-existing easements;
  - 5.7 Excavation or removal of material except as necessary for maintenance of any pre-existing easements and rights-of-way;
  - 5.8 Alteration of natural drainage and flooding patterns or dredging, filling, excavation or construction of ponds or dikes;
  - 5.9 Horseback riding, hunting, fishing, trapping, discharge of firearms or other weapons;
  - 5.10 Mining or exploration of minerals, commercial or industrial uses, exterior artificial illumination;
  - 5.11 Subdivision of the Protected Property for any purpose;
  - 5.12 Introduction of non-native, exotic plant or animal species;
  - 5.13 Pollution, alternation, depletion or extraction of surface water, natural water courses, lakes, ponds, marshes, subsurface water or any other water bodies;
  - 5.14 Except as otherwise provided herein, specifically paragraph 21 below, removal or alterations of physical controls and associated monitoring equipment and wells existing on the Protected Property or as may be required in the future that serve the purpose of remediating and/or containing hazardous substances and/or oil present in the groundwater and/or soil on the Protected Property;
  - 5.15 The installation or use of any well on the Protected Property to access or use groundwater from beneath the Protected Property; and
  - 5.16 Any other activity or use that may prevent the Protected Property from remaining in an essentially natural condition for use as a wildlife habitat, to protect and preserve the natural, scenic, and open-space value of the Property and for the provision of ecological services in perpetuity.
6. Should Grantee and/or the Texas Commission on Environmental Quality (“TCEQ”), the Texas General Land Office (“GLO”) or the Texas Parks and Wildlife Department (“TPWD”) (said TCEQ, GLO and TPWD hereinafter collectively referred to as the “Texas Natural Resource Trustees”) believe that Grantor may have or may be engaging in a prohibited activity, then Grantee and/or the Texas Natural Resource Trustees shall provide written notice describing the nature and circumstances of such activity to Grantor no later than thirty (30) days after discovering or becoming aware of the activity. Grantor thereafter shall have thirty (30) days from the receipt of said notice to provide written response to Grantee and the Texas Natural Resource Trustees as to whether such prohibited activity has occurred, and if so determined Grantee and the Texas Natural Resource Trustees agree to attempt to mutually resolve with Grantor any dispute regarding the prohibited activity. However, if either Grantee and/or the Texas Natural Resource Trustees determines circumstances warrant immediate action to prevent or mitigate any prohibited activity, Grantee or the Texas Natural Resource Trustees may immediately bring an action at law or equity in a court of competent jurisdiction, against any person (including Grantor), to enjoin the prohibited use, to recover any damages

arising from the prohibited use, and to seek costs incurred in pursuing such legal or equitable remedies.

7. Grantee is granted the right to preserve and protect the natural, scenic, ecological, habitat, and open-space values of the Protected Property; the right to enter the Protected Property as necessary to inspect the Protected Property to determine whether the natural, scenic, and open-space values of the Protected Property are being or have been adversely affected or damaged, said right to inspect is subject to prior notification being provided to the Warden's Offices of the Wallace Unit and the Ware Unit; and the right to prevent or abate any activity on or use of the Protected Property by any person that is in violation of or inconsistent with the terms of this Conservation Easement.
8. Grantor hereby provides to the Texas Natural Resource Trustees right of entry and a "third party" right to enforce this Easement and/or the rights granted to the Grantee herein. Such right of entry and third-party right of enforcement may be exercised individually or collectively.
9. The exercise of the right of entry granted in this Conservation Easement is subject to prior notice being provided to the Warden's Offices of the Wallace Unit and the Ware Unit. Further and notwithstanding any other provision in this Conservation Easement to the contrary, the Texas Department of Criminal Justice retains the right to enter and search the Protected Property and to take necessary and appropriate actions at any time in furtherance of or execution of its statutory duties and responsibilities.
10. The conservation values of the Protected Property are documented in Exhibit D, attached hereto and incorporated herein by reference (Baseline Documentation), which consists of photographs, a written description, and other documentation that provide, collectively, an accurate representation of the Property at the time of this grant. Additionally, the conservation values of the Protected Property will be enhanced in the future with the restoration work to be conducted in accordance with the Restoration Plan.
11. Nothing in this Conservation Easement shall give or grant to the public any right to enter upon or to use the Protected Property or any portion thereof.
12. It is specifically understood and agreed that this Conservation Easement does not grant the fee or any interests in the oil, gas or other minerals in, on or under the Protected Property. Further, this grant is made subject to all outstanding easements covering the Protected Property.
13. Grantee acknowledges that it is subject to the provisions of the Texas Antiquities and title to any archaeological articles, objects, or artifacts in or on the Protected Property remains in the State of Texas.
14. Grantor agrees that Grantee's use of the Protected Property as set out in this Conservation Easement is consistent with the definition of a conservation easement contained in

Chapter 183 of the Natural Resources Code.

15. Grantor shall keep the interest of Grantee as Holder free of any liens or other encumbrances incurred by Grantor. Any lien or security interest Grantor places on the Protected Property shall be subordinate to Grantee's interest in this Conservation Easement.
16. Excluding Grantor, any subsequent owner(s) of the Protected Property that is not exempt from paying real estate taxes or other assessments levied on the Protected Property shall pay all said real estate taxes and other assessments levied on the Protected Property before any default and shall furnish Grantee with satisfactory evidence of such payment upon request.
17. Grantor covenants, represents and warrants to Grantee that the State of Texas is the sole owner and is seised of the Protected Property in fee simple and has, pursuant to H.B. 2879 (77<sup>th</sup> Leg., R.S. 2001) authorized Grantor to grant and convey this Conservation Easement; the Protected Property is free and clear of all liens and encumbrances, except for those existing encumbrances of record and existing prior to the execution of this Conservation Easement; and Grantee shall have all use of and enjoyment of all the benefits derived from and arising out of this Conservation Easement.
18. To the extent allowed by applicable law, this Conservation Easement, the covenants agreed to and the terms, conditions, and restrictions imposed by this grant, shall be binding upon Grantor and its lessees, agents, representatives, successors, and assigns, and all other successors in interest to Grantor and shall be interpreted as a covenant running with the land. Grantor agrees that the terms, conditions, restrictions and purposes of this grant or references thereto will be inserted in any subsequent deed or other legal instrument by which Grantor divests either the fee simple title, any possessory interest, or any usufruct interest in the Protected Property. Grantor shall notify Grantee and the Texas Natural Resource Trustees in writing of any pending sale, lease, or other disposition of the Protected Property, or any part thereof, no less than thirty (30) days prior to such intended sale, lease, or disposition.
19. To the extent allowed by applicable law, Grantor may not extinguish, alter, or abandon this Conservation Easement without the consent and approval in writing of Grantee and the Texas Natural Resource Trustees, or as otherwise provided herein.
20. With written approval from the Grantor and the Texas Natural Resource Trustees, the Grantee may transfer or assign this Conservation Easement to any entity that at the time of transfer, is a "qualified organization" under Section 170(h) of the U.S. Internal Revenue Code, satisfies the requirements of a "Holder" under the Texas Natural Resources Code Section 183.001(2), and the entity expressly agrees to assume the responsibility imposed on the Grantee by this Conservation Easement. If the Grantee ever ceases to exist or no longer qualifies as a "qualified organization" under Section 170(h), or a "Holder" under Section 183.001(2) or applicable state law, this Conservation

Easement shall, pursuant to the Act transfer to another qualified organization/Holder identified by the Texas Natural Resource Trustees.

21. Any other provision in this Conservation Easement to the contrary notwithstanding, ATOFINA Petrochemicals, Inc. (“ATOFINA”), Lone Wolf Land Company (“Lone Wolf”), and/or Chevron Environmental Management Company (“Chevron”) and their authorized representatives and contractors, successors, and assigns, as well as the Texas Natural Resource Trustees may, with prior notification to the Ware Unit and Wallace Unit Wardens Offices, enter onto the Protected Property for the purpose of conducting activities required and/or necessary pursuant to the Restoration Plan, or as otherwise required by competent authority(s) to investigate, monitor or remediate affected environmental media on the Protected Property.
22. If any provision of this Conservation Easement or the application to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.
23. Any prior failure of Grantor, Grantee or the Texas Natural Resource Trustees to enforce the terms of this Conservation Easement or to ensure compliance thereof, does not thereafter waive or otherwise forfeit their right to take action as necessary to enforce and/or ensure compliance with this Conservation Easement.
24. Any reference to Grantor, Grantee, and Texas Natural Resource Trustees in this Conservation Easement shall include the successors, agents, and representatives of these entities.
25. Any notice or demand required pursuant to this Conservation Easement shall be in writing and shall be deemed duly given and received only if hand delivered or mailed by registered mail, return receipt requested, postage prepaid. Notice shall be deemed to have been received on the date that it is hand delivered or the date of receipt as shown on the return receipt, or the date of receipt as indicated by the United States Post Office, should delivery be refused. Any notice or demand shall be made in writing and addressed to the relevant parties as follows:

For the Texas Board of Criminal Justice:

Texas Board of Criminal Justice  
P. O. Box 13084  
Austin, Texas 78711

For the Natural Area Preservation Association, Inc.:

Natural Area Preservation Association, Inc.  
1301 South Interstate 35, Suite 301  
Austin, Texas 78741

For Texas Commission on Environmental Quality:

Natural Resource Trustee Program (Col-Tex)  
Mail Code 142  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, Texas 78711-3087

For the Texas General Land Office:

Texas General Land Office, Room 810, MC-127  
1700 Congress Avenue  
Austin, Texas 78701-1495

For Texas Parks and Wildlife Department:

NRDA Coordinator  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744-3292

26. Whenever all or part of the Protected Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, Grantor and Grantee shall take appropriate actions at the time of the taking to recover the full value of the taking and all incidental or direct damages resulting from it, and the proceeds shall be placed in a trust account for the purpose of conducting further restoration/conservation activities, consistent with the goals of the Restoration Plan at the Protected Property, or at an alternate property. Grantee and the Texas Natural Resource Trustees shall be named as co-trustees on the account with rights to fund the additional restoration/conservation activities.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

TEXAS BOARD OF CRIMINAL JUSTICE (“GRANTOR”)

By: \_\_\_\_\_  
A.M. STRINGFELLOW  
CHAIRMAN

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS     §

BEFORE ME, the undersigned authority on this day personally appeared A.M. STRINGFELLOW, Chairman of the Texas Board of Criminal Justice, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**ACCEPTANCE BY THE NATURAL AREA PRESERVATION ASSOCIATION, INC.  
("GRANTEE" and "HOLDER")**

\_\_\_\_\_  
David Bezanson  
Executive Director  
The Natural Area Preservation Association, Inc.

Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

BEFORE ME, a Notary Public, on this day personally appeared DAVID BEZANSON, an authorized representative of The Natural Area Preservation Association, Inc., known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
("THIRD PARTY WITH RIGHT OF ENFORCEMENT")**

\_\_\_\_\_  
Margaret Hoffman  
Executive Director

Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

BEFORE ME, a Notary Public, on this day personally appeared MARGARET HOFFMAN, an authorized representative of the TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.



**FOR THE TEXAS GENERAL LAND OFFICE  
("THIRD PARTY WITH RIGHT OF ENFORCEMENT")**

\_\_\_\_\_  
Larry R. Soward  
Chief Clerk and Senior Deputy Commissioner

Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

BEFORE ME, a Notary Public, on this day personally appeared L.R. SOWARD, an authorized representative of the TEXAS GENERAL LAND OFFICE, known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**FOR THE TEXAS PARKS AND WILDLIFE DEPARTMENT  
("THIRD PARTY WITH RIGHT OF ENFORCEMENT")**

\_\_\_\_\_  
Robert L. Cook  
Executive Director

Date: \_\_\_\_\_

**ACKNOWLEDGMENT**

BEFORE ME, a Notary Public, on this day personally appeared R.L. COOK, an authorized representative of the TEXAS PARKS AND WILDLIFE DEPARTMENT, known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROTECTED PROPERTY**

77.723 ACRES OF LAND OUT OF SECTION 31, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS AND SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS.

DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A FOUND 1/2" IRON PIN IN THE SOUTH RIGHT OF WAY OF INTERSTATE 20 FOR THE N.W. CORNER OF A TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO THE STATE OF TEXAS RECORDED IN MITCHELL COUNTY PUBLIC RECORDS VOLUME 530 PAGE 326

THENCE: N 59°17'25" E - 171.92' ALONG SAID SOUTH RIGHT OF WAY TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 03°58'41" E - 66.74' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 18°25'29" E - 217.73' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 01°56'53" W - 56.92' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 59°51'22" W - 118.22' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 40°09'52" W - 43.43' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 21°44'43" E - 204.92' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 19°59'48" E - 432.21' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 20°57'42" E - 176.72' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 14°15'57" E - 212.62' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 23°07'38" E - 62.25' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 30°35'45" E - 260.93' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 33°24'03" E - 154.27' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 66°40'53" E - 150.44' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 01°58'29" W - 40.31' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 42°58'08" E - 533.59' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 57°41'47" E - 149.42' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 67°21'50" E - 25.34' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 04°33'01" E - 34.12' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 82°24'00" E - 511.40' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 00°11'26" E - 69.14' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 34°25'32" E - 99.28' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 03°37'45" E - 112.40' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 75°28'00" E - 171.60' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 03°37'45" E - 112.40' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 79°19'46" E - 204.16' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 86°11'46" E - 106.48' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 26°40'20" E - 72.72' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 75°58'26" E - 396.53' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 68°07'59" E - 47.08' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 75°58'19" E - 468.60' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 53°29'28" E - 143.48' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 66°22'44" E - 60.59' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 19°15'41" W - 177.97' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 28°01'43" W - 120.31' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 49°56'04" E - 62.45' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 81°32'28" E - 51.35' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

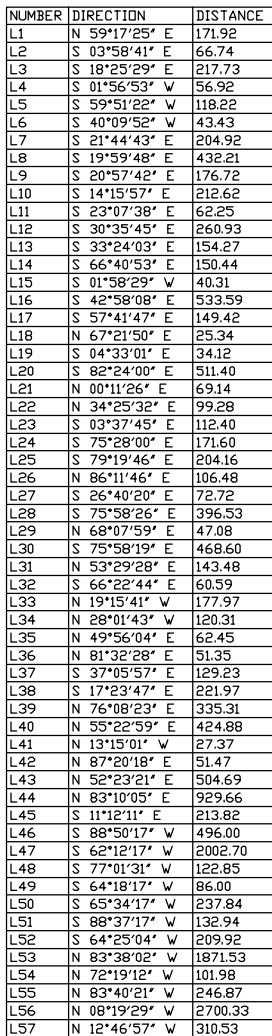
THENCE: S 37°05'57" E - 129.23' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 17°23'47" E - 221.97' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 76°08'23" E - 335.31' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 55°22'59" E - 424.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 13°15'01" W - 27.37' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 87°20'18" E - 51.47' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 52°23'21" E - 504.69' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 83°10'05" E - 929.66' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS IN THE  
EAST LINE OF SAID SECTION 42  
THENCE: S 11°12'11" E - 213.82' ALONG SAID EAST LINE TO A POINT FOR THE S.E. CORNER  
OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326  
THENCE: S 88°50'17" W - 496.00' ALONG THE SOUTH LINE OF THE TRACT OF LAND  
DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326  
THENCE: S 62°12'17" W - 2002.70' ALONG SAID SOUTH LINE  
THENCE: S 77°01'31" W - 122.85' ALONG SAID SOUTH LINE  
THENCE: S 64°18'17" W - 86.00' ALONG SAID SOUTH LINE  
THENCE: S 65°34'17" W - 237.84' ALONG SAID SOUTH LINE  
THENCE: S 88°37'17" W - 132.94' ALONG SAID SOUTH LINE  
THENCE: S 64°25'04" W - 209.92' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 IN  
THE NORTH RIGHT OF WAY OF BUSINESS LOOP 20 FOR THE MOST SOUTHERLY  
CORNER OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN SAID VOLUME 530  
PAGE 326  
THENCE: N 83°38'02" W - 1871.53' ALONG SAID NORTH RIGHT OF WAY TO A SET 1/2" IRON  
PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 72°19'12" W - 101.98' ALONG SAID NORTH RIGHT OF WAY TO A FOUND  
CONCRETE RIGHT OF WAY MONUMENT  
THENCE: N 83°40'21" W - 246.87' ALONG SAID NORTH RIGHT OF WAY TO A FOUND 1/2" IRON  
PIN IN THE WEST LINE OF SAID SECTION 42 FOR THE S.W. CORNER OF THE TRACT  
OF LAND DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326  
THENCE: N 08°19'29" W - 2700.33' ALONG SAID WEST LINE TO A FOUND 2" IRON PIPE FOR  
THE N.W. CORNER OF SAID SECTION 42  
THENCE: N 12°46'57" W - 310.53' TO THE POINT OF BEGINNING AND CONTAINING 77.723  
ACRES OF LAND MORE OR LESS.

**EXHIBIT B**  
**MAP OF PROTECTED PROPERTY**



BUSINESS LOOP 20

## **EXHIBIT C**

### **EXECUTIVE SUMMARY FROM THE RESTORATION PLAN**

#### **EXECUTIVE SUMMARY**

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The Texas Parks and Wildlife Department (TPWD), Texas Commission on Environmental Quality (TCEQ), and the Texas General Land Office (GLO) (“Trustees”) have prepared this Draft Habitat Enhancement and Restoration Plan (“Plan”) for the restoration of natural resources that were actually or potentially injured, lost or destroyed as a result of releases of hazardous substances or petroleum at the former Col-Tex Refinery site, located immediately west of Colorado City in Mitchell County, Texas. The former Col-Tex Refinery site lies north and south of U.S. Highway 80 (Business Interstate 20) and includes adjacent areas and portions of the Colorado River located north and east of the former refinery property. The refinery was in operation from 1924 to 1969. In 1994, it was listed as a Texas State Superfund Site and investigatory and remedial activities commenced under the supervision and guidance of the TCEQ.

The Potentially Responsible Parties (PRPs), ATOFINA Petrochemical, Inc. (formerly Fina Oil and Chemical Co.) and Chevron Environmental Management Co., together with the Trustees, collectively referred to as the “Parties” assessed and quantified potentially injured habitat using the Habitat Equivalency Analysis (HEA) approach. HEA was used to evaluate and quantify the injuries for each impacted habitat type. Specific input variables for each HEA model were based upon the data collected at the site. Using existing data, experience and best professional judgement, the Parties agreed on the size of the habitat areas potentially injured; the relative habitat services lost; and the duration of the losses. Compensatory restoration projects were proposed to restore the potentially injured natural resources to baseline conditions, and to compensate the environment and the public for the loss of ecological services.

Based on the results of the HEA calculation, a total of 1.5 acres of open water aquatic – pond construction, 2.4 acres of riverine aquatic/water quality improvement, 21 acres of riparian habitat construction, 25 acres of terrestrial habitat construction, and 35 acres of terrestrial habitat, placed in conservation in perpetuity, would compensate for losses of services provided by those habitats actually or potentially injured at the former Col-Tex Refinery site. A reasonable range of alternatives was evaluated by the Trustees prior to selecting the preferred alternative as the Proposed Action. The advantages and disadvantages of each alternative were evaluated to determine the preferred alternative. The key criteria applied during the evaluation of the alternatives included the ability to provide appropriate compensation, the likelihood of success, and the benefits to resources. In evaluating each alternative based on these criteria, the Parties were able to eliminate all but one alternative. The “best overall” candidate site where compensatory restoration can be implemented is a property located just west of Colorado City and adjacent to the former Refinery Site. This site includes the Colorado River riparian corridor and upland areas located between the river and Highway 80 (Refer to Figure 6.1). This site offers an opportunity to create a connected mosaic of habitats that are adjacent to the area where potential injuries from operation of the former Col-Tex Refinery occurred.

Six goals have been established for the resource enhancement and restoration activities along the Colorado River and at the upland site. These goals are:

- Improve local river water quality and riverine aquatic habitat in the project reach;
- Restore a native riparian corridor habitat along the Colorado River;
- Restore and enhance the native upland scrub/shrub vegetative community;
- Create a freshwater aquatic habitat system;
- Provide a sustained source of water for wildlife use; and
- Provide a limited-access public use and interpretive area for environmental education.

River Water Quality. The Colorado River water quality and aquatic habitat improvements will be accomplished through: reduction in local sediment supply to the river; creation of a canopy cover over the river through establishment of a native riparian vegetative corridor; providing a source of woody debris and leaf litter to the river for habitat diversity; and minimizing disruption to existing habitats. Erosion control measures will be installed on a large gully located on the north side of the river midway in the project reach.

Riparian Habitat. Restoration of the native riparian vegetation will provide benefits to the natural resources of the Colorado River through removal of exotic salt cedar trees and revegetation of the resulting cleared area with native woody tree, shrub, and herbaceous species. Priority activities for riparian enhancement include: salt cedar control; soil preparation through amendments; installation of a drip irrigation system for tree and shrub establishment; native revegetation; and fencing installation.

Upland Vegetative Community. Approximately 35 acres of upland habitat on the south side of the river is vegetated with native scrub/shrub species and mesquite and will be conserved in its current condition. In addition, approximately 25 acres of former agricultural fields located at the eastern end of the project site will be restored to an upland vegetative community, using native forb, grass, and shrub species. Of that 25 acres, approximately 7 acres will be planted in shrub and tree species. Activities included in the proposed scrub/shrub habitat restoration project include: surface grading and erosion control, undesirable species control, seedbed preparation, seeding, mulching, and transplanting.

Freshwater Aquatic Habitat. An existing stock pond is located on the south side of the Colorado River. A large drainageway bypasses the stock pond just east of its location. As proposed, a drainage swale will be constructed to connect this drainageway to the existing pond, thus increasing the amount of runoff that will contribute to the pond. In addition, the existing pond will be enhanced by regrading the base of the pond to increase its capacity to hold water. Erosion control measures will be used at the pond's perimeter to minimize soil erosion from the near banks. Revegetation of the ponds' perimeters will be accomplished through seeding, transplants and natural colonization.

Wildlife Water Source. A wildlife water catchment (guzzler) consisting of an apron for collecting precipitation, a tank to store collected rainfall, and a trough that provides access to the water by different-sized wildlife species will be installed in the eastern portion of the project site within the upland restoration area. The planting plan for this upland area will be designed to provide variability in food sources and adequate areas of cover adjacent to the guzzler for target species.

Public Use. At the PRP's option and with TDCJ approval, an interpretive trail and a scenic viewing area with signs is proposed on the south side of the Colorado River within the upland area. Public access to the interpretive trail would be controlled and scheduled by a local party to minimize negative impacts to the conservation area and wildlife that uses the habitats. Public access to the site would be limited at the scenic viewing area through fencing.



Monitoring. The habitat enhancement and restoration plan will be implemented starting in the fall of the first year following the execution of the settlement agreement and continue during the next two years. It is anticipated that construction of all habitat elements will be completed in the spring of the third year. Monitoring will begin after construction of each restoration plan element is complete. For the riparian area, monitoring will begin as each phase is completed.

The purpose of monitoring is to: obtain an objective assessment of project progress towards pre-determined project goals and performance standards; identify and correct problems through an adaptive management approach; and ensure that the PRPs meet their compensatory restoration obligations. Monitoring of the site will be a cooperative process. The PRP is responsible for implementing the monitoring plan. The Trustees will oversee monitoring efforts, review monitoring results and make decisions regarding corrective actions. Monitoring of the site will utilize qualitative methods; however, in the event that there is disagreement as to whether the performance criteria are being met by a particular portion of the restoration project or the project as a whole, a quantitative survey would be conducted.

Performance standards related to plant survival have been established for the riparian and upland components of the restoration project. Performance standards have also been established for the emergent vegetation surrounding the pond enhancement based on area of cover. Specific performance criteria have not been set for the erosion control structure, pond structure, or wildlife water catchment portions of the restoration. Parameters to measure development of the pond and erosion control measures will only be recorded for comparison purposes.

Each project component will undergo certification by the Trustees at the time of installation if installed to set specifications and upon completion of their respective monitoring period if performance standards are met. At that time, the property will continue to be held in a conservation easement in perpetuity.

**EXHIBIT D**  
**BASELINE DOCUMENTATION**

## Texas Department of Criminal Justice Property Baseline Documentation

### **Background**

The Texas Department of Criminal Justice (TDCJ) property is 77.723 acres of land out of Section 31 and Section 42, Block 26, T&P RY Co. Surveys, Mitchell County, Texas. The property is bounded by pastures and open and agricultural fields owned by the TDCJ to the north; privately-owned open rangeland to the west; the Highway 80 (Business I-20) right-of-way to the south at the western end of the property and at the eastern end there is industrial/open fields owned by Lone Wolf Land Co., and ATOFINA to the south. (Refer to Aerial Photo-Figure 1). A 4-strand barbed-wire fence encloses most of the northern boundary and the southeastern boundary. There is no fence to the west. The Colorado River bisects the subject property, flowing from northwest to southeast. The property includes the river floodway up to the upper terrace on the north side. On the south, the property includes upland scrub-shrub rangeland that extends south to Highway 80 (Refer to Topographic Map – Figure 2). Within the rangeland south of the river there is a man-made pond that was created approximately 30-40 years ago by constructing a berm across a drainage that historically entered the Colorado River. The existing pond contains approximately 1.6 acres of open water at high stage (Figures 3 and 4).

Prior to TDCJ ownership the property was part of the Spade Ranch. Clearing of native vegetation has altered the riparian habitat along the Colorado River. The riverbanks are dominated by tamarisk (salt cedar), an invasive species that excludes establishment of native hardwoods. Current operations of the TDCJ include continued clearing of vegetation along the river. As a result there are mostly tamarisk seedlings and weedy herbaceous vegetation on the north, west and east sides of the river. The south side has not been cleared of vegetation recently allowing large tamarisk trees to grow (Figures 5, 6, 7, and 8).

The western half of the property is dominantly scrub-shrub mesquite-type rangeland (Figure 9) with open fields of both native (Figure 10) and invasive species (Figures 11 and 12). Adjacent to the pond at the western end rock outcrops of well-cemented sandstone create the cliffs and hill slopes. In the central portion of the property there is steep hillslope that defines the southern property boundary which slopes down to the historic channel of Rock Creek. This drainage was dammed and diverted in the past to the adjacent Rock Creek channel. Hydrocarbon-impacted groundwater was allowed to pool in this historic channel and then separate to recover the petroleum products.

A hydrocarbon seep enters the river on TDCJ property just north of the Old Texas Compress building that is owned by Lone Wolf Land Co. The seep is being managed by ATOFINA under an Agreed Order with the TNRCC. Remediation efforts at the former Col-Tex refinery include an air sparging system on the subject property to clean up the impacted groundwater (Figure 13 and 14). Clean up efforts at the former refinery are addressing the source of contaminants.

### **Biological Inventory**

As part of the Col-Tex site assessment, a Biological Inventory and Evaluation (BIE) was conducted within TDCJ property in the rangeland area on the south side of the Colorado River. This area was used as a reference site for comparison purposes. The objectives of the BIE were to: (1) identification and preliminary characterization of the biological resources present and potentially expected in the aquatic and terrestrial habitats in the study area, (2) qualitative comparison of site habitat characteristics with those habitat characteristics observed in a reference site study area, and (3) preliminary identification of apparent site-related and non-site-related physical and environmental stressors present at the site. The three surveys were conducted during 1996 and 1997, one in summer (August 18-23, 1996), one in winter (December 9-11, 1996), and one in spring (April 21-25, 1997).

During each BIE, vegetation surveys were conducted using three transect each approximately 50 feet wide, 25 ft. on either side of the transect. These transects were approximately 350 ft. long, starting at high points and ending at the river. Both still and walking bird count surveys were conducted at the reference site. This allowed for the observer to survey the entire site. Mammal surveys were conducted throughout the BIE field efforts. The procedures used in the mammal surveys consisted of incidental sightings and identification of mammal tracks (i.e., prints, scat, bones, skins, dens or burrows) throughout the day, and spotlighting live animals at night. The amphibian and reptile surveys were conducted throughout the day and consisted of incidental sightings, active searching, and identification of calls and tracks.

In addition three aquatic sample sites were selected in the Colorado River adjacent to the reference site study area. Benthic invertebrate samples were collected from the sediment in the river at all aquatic sampling sites. Samples were prepared and invertebrates were examined and identified. Fish surveys were also conducted by using a seine to collect fish. One pass was made with the seine through the entire sampling area. Fish were identified in the field to the species level and abundance and relative portion of each species to the total numbers collected was estimated. Physical water quality data were collected at each of the sampling sites.

Summaries of vegetation, bird, mammal, reptile/amphibian, invertebrate, fish, and aquatic vegetation surveys were recorded in tables that follow.

Table 1. Three Season BIE Vegetation Survey Summary – Reference Site on TDCJ Property

Genus	Species	Common Name	Ref-1	Ref-2	Ref-3
<i>Acacia</i>	<i>greggii</i>	catclaw acacia	s,w,sp	s,w,sp	s,w,sp
<i>Allium</i>	<i>drummondii</i>	wild onion	sp	sp	sp
<i>Amblyolepis</i>	<i>setigera</i>	Huisache daisy		sp	sp
<i>Ambrosia</i>	<i>psilostachya</i>	ragweed	s		sp
<i>Argemone</i>	<i>polyanthemus</i>	prickly poppy	sp	sp	sp
<i>Aristida</i>	<i>sp.</i>	threeawn (spear grass)	w,sp	w,sp	w,sp
<i>Artemisia</i>	<i>sp.</i>	sagebrush	w		w
<i>Artemisia</i>	<i>ludoviciana</i>	Mexican sagewort	w,sp	w,sp	w,sp
<i>Aster</i>	<i>subulatus</i>	blackweed daisy	sp		sp
<i>Astragalus</i>	<i>mollissimus</i>	wooly loco		sp	sp
<i>Atriplex</i>	<i>canescens</i>	fourwing saltbush	s,w,sp	s,w,sp	s
<i>Baccharis</i>	<i>salicina</i>	willow baccharis	s,w,sp	s	
<i>Berberis</i>	<i>trifoliolata</i>	agarito	s,w,sp	s,w,sp	s,w,sp
<i>Bothriochloa</i>	<i>saccharoides</i>	silver bluestem	s		s
<i>Bouteloua</i>	<i>curtipendula</i>	side oats grama	w,sp	s,w	s,w,sp
<i>Bouteloua</i>	<i>hirsuta</i>	hairy grama		w	s,w
<i>Bouteloua</i>	<i>gracilus</i>	blue grama	w,sp	w	
<i>Bromus</i>	<i>unioloides</i>	rescue grass	sp	sp	sp
<i>Bromus</i>	<i>japonicus</i>	Japanese brome	sp		
<i>Buchloe</i>	<i>dactyloides</i>	buffalo grass	sp		
<i>Bumelia</i>	<i>sp.</i>	unknown			s
<i>Ceanothus</i>	<i>americanus</i>	buckbush or Jersey tea	s,sp	w,sp	s,sp
<i>Celtis</i>	<i>reticulata</i>	hackberry	sp	w	
<i>Cerastium</i>	<i>sp.</i>	chickweed		sp	
<i>Chenopodium</i>	<i>album</i>	lamb's quarters	sp		
<i>Chloris</i>	<i>cucullata</i>	tumble windmill grass		w,sp	w
<i>Cirsium</i>	<i>sp.</i>	thistle		sp	sp
<i>Corydalis</i>	<i>aurea</i>	golden smoke	sp		
<i>Croton</i>	<i>texensis</i>	Texas croton	s,w,sp	s,w,sp	s,w,sp
<i>Cynodon</i>	<i>dactylon</i>	common bermudagrass	w	s	s
<i>Daucus</i>	<i>carota</i>	wild carrot	sp	sp	
<i>Descurainia</i>	<i>sp.</i>	tansey mustard			sp
<i>Distichlis</i>	<i>spicata</i>	saltgrass	sp	sp	s,w
<i>Dyssodia</i>	<i>sp.</i>	dogweed	sp	sp	
<i>Echinocactus</i>	<i>texensis</i>	horse crippler	s,sp	w	s
<i>Echinocactus</i>	<i>sp.</i>	barrel cactus	sp		
<i>Erigeron</i>	<i>modestus</i>	fleabane daisy	sp	sp	
<i>Erodium</i>	<i>cicutarium</i>	cranesbill	sp	sp	sp
<i>Gaillardia</i>	<i>pulchella</i>	Indian blanket			sp
<i>Gaillardia</i>	<i>suaris</i>	rayless Gaillardia		sp	
<i>Galium</i>	<i>aparine</i>	catch weed			sp
<i>Guara</i>	<i>suffulta</i>	scarlet guara	sp	sp	
<i>Helianthus</i>	<i>annuus</i>	common sunflower		s	

Table 1, continued. Three Season BIE Vegetation Survey Summary – Reference Site

<i>Hoffmansoggia</i>	<i>glauca</i>	sensitive plant			sp
<i>Juniperus</i>	<i>pinchotii</i>	redberry juniper	s,w,sp	s,w,sp	s,w,sp
<i>Lepidium</i>	<i>sp.</i>	pepper wort	sp		
<i>Lesquerella</i>	<i>sp.</i>	bladderpod		sp	sp
<i>Linium</i>	<i>rigidum</i>	yellow flax	sp	sp	
<i>Mentzelia</i>	<i>sp.</i>	stick-leaf		sp	
<i>Muhlenbergia</i>	<i>porteri</i>	bush muhly	sp		
<i>Opuntia</i>	<i>sp.</i>	pricklypear	s,w,sp	s,w,sp	s,w,sp
<i>Opuntia</i>	<i>leptocaulis</i>	tasajillo	s,w,sp	s,w,sp	s,w,sp
<i>Penstemon</i>	<i>fendleri</i>	purple foxglove		sp	
<i>Phoradendron</i>	<i>tomentosum</i>	mistletoe			sp
<i>Pinaropappus</i>	<i>roseus</i>	rock lettuce		sp	sp
<i>Plantago</i>	<i>sp.</i>	plaintain		sp	
<i>Populus</i>	<i>deltoides</i>	eastern cottonwood			sp
<i>Prionopsis</i>	<i>ciliata</i>	saw tooth daisy		s	
<i>Prosopsis</i>	<i>glandulosa</i>	mesquite	s,w,sp	s,w,sp	s,w,sp
<i>Rhus</i>	<i>toxicodendron</i>	poison ivy		s	s,sp
<i>Rhus</i>	<i>sp.</i>	sumac (narrow leaf)		sp	sp
<i>Rhus</i>	<i>aromatica</i>	skunkbush		sp	
<i>Rumex</i>	<i>hymenosephalus</i>	dock	sp	sp	
<i>Salix</i>	<i>nigra</i>	black willow	s,w		
<i>Salsola</i>	<i>iberica</i>	tumbleweed	s,w,sp	s,w,sp	w
<i>Schizachyrium</i>	<i>scoparium</i>	little bluestem			w
<i>Seteria</i>	<i>macrostachya</i>	plains bristle seed	s,sp	s,w,sp	s,w,sp
<i>Sisyrinchium</i>	<i>sagittiferum</i>	blue-eyed grass	sp		sp
<i>Solanum</i>	<i>elaeagnifolium</i>	silver leaf nightshade	s,sp		s
<i>Solidago</i>	<i>sp.</i>	goldenrod	w		
<i>Sorghum</i>	<i>halapense</i>	Johnson grass	s,w,sp	s,w	w
<i>Sphaeralcea</i>	<i>hastulata</i>	globe mallow	sp		sp
<i>Sporobolus</i>	<i>cryptandrus</i>	sand dropseed	w,sp	w	w
<i>Tamarisk</i>	<i>gallica</i>	saltcedar	s,w,sp	s,w,sp	s,w,sp
<i>Thelasperma</i>	<i>filifolium</i>	green thread	sp	sp	sp
<i>Trifolium</i>	<i>sp.</i>	clover		sp	
<i>Ulmus</i>	<i>pumila</i>	Chinese elm	s		
<i>Ungnadia</i>	<i>speciosa</i>	Mexican buckeye	sp	sp	sp
<i>Unknown</i>	<i>sp.</i>	fern			sp
<i>Verbena</i>	<i>bracteata</i>	prostrate vervain			sp
<i>Verbena</i>	<i>sp.</i>	verbena		sp	sp
<i>Vinaphedra</i>	<i>sp.</i>	Mormon tea	s,w,sp	s,w,sp	s,w,sp
<i>Xanthocephalum</i>	<i>dracunculoides</i>	annual broomweed	w	s,w	w
<i>Yucca</i>	<i>sp.</i>	yucca	s,w,sp	s,w,sp	s,w,sp

Notes:

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

Table 2. Three Season BIE Bird Survey Summary – Reference Site on TDCJ Property.

Genus	Species	Common Name	Reference Site
<i>Agelaius</i>	<i>phoeniceus</i>	red-winged blackbird	sp
<i>Anas</i>	<i>strepera</i>	gadwall	sp
<i>Anas</i>	<i>sp.</i>	unidentified black ducks	w
<i>Anas</i>	<i>platyrhynchos</i>	mallard duck	w
<i>Ardea</i>	<i>herodias</i>	great blue heron	s,w,sp
<i>Auriparus</i>	<i>flaviceps</i>	verdin	sp
<i>Buteo</i>	<i>swainsoni</i>	Swainson's hawk	sp
<i>Buteo</i>	<i>jamaicensis</i>	red-tailed hawk	sp
<i>Buteo</i>	<i>sp.</i>	hawk species	sp
<i>Butorides</i>	<i>virescens</i>	green heron	sp
<i>Campylorhynchus</i>	<i>brunneicapillum</i>	cactus wren	w
<i>Cardinalis</i>	<i>cardinalis</i>	cardinal	s,w,sp
<i>Cathartes</i>	<i>aura</i>	turkey vulture	sp
<i>Certhia</i>	<i>familiaris</i>	brown creeper	w
<i>Chaetura</i>	<i>pelagica</i>	chimney swift	sp
<i>Charadrius</i>	<i>vociferus</i>	kildeer	s,w
<i>Chordeiles</i>	<i>minor</i>	common nighthawk	s,sp
<i>Circus</i>	<i>cyaneus</i>	northern harrier	sp
<i>Colinus</i>	<i>virginianus</i>	bob white quail	s,sp
<i>Coragyps</i>	<i>atratus</i>	black vulture	sp
<i>Corvus</i>	<i>sp.</i>	crow	sp
<i>Cyanocitta</i>	<i>cristata</i>	blue-jay	w,sp
<i>Dendrocopos</i>	<i>scalaris</i>	ladder backed woodpecker	s
<i>Empidonax</i>	<i>difficilis</i>	western flycatcher	w
<i>Gallinago</i>	<i>gallinago</i>	common snipe	sp
<i>Geococcyx</i>	<i>californianus</i>	roadrunner	s,sp
<i>Icterus</i>	<i>bullockii</i>	Bullock's Oriole	s,w
<i>Lanius</i>	<i>ludovicianus</i>	loggerhead shrike	sp
<i>Megaceryle</i>	<i>alcyon</i>	belted kingfisher	s,sp
<i>Melospiza</i>	<i>lincolnii</i>	Lincoln's sparrow	sp
<i>Mimus</i>	<i>polyglottos</i>	mockingbird	w,sp
<i>Molothrus</i>	<i>ater</i>	brown headed cowbird	sp
<i>Muscivora</i>	<i>forficata</i>	scissor tail flycatcher	sp
<i>Myiarchus</i>	<i>cinerascens</i>	ash-throated flycatcher	sp
<i>Parus</i>	<i>bicolor</i>	titmouse	sp
<i>Petrochelidon</i>	<i>pyrrhonota</i>	cliff swallow	s,sp
<i>Quiscalus</i>	<i>sp.</i>	grackle	sp
<i>Quisealus</i>	<i>mexicanus</i>	great-tailed grackle	sp
<i>Riparia</i>	<i>riparia</i>	barn swallow	sp
<i>Sturnella</i>	<i>sp.</i>	meadowlark	w,sp

Table 2, continued. Three Season BIE Bird Survey Summary – Reference Site on TDCJ Property.

<i>Sturnus</i>	<i>vulgaris</i>	starling	w
<i>Thryomanes</i>	<i>bewickii</i>	Bewick's wren	s,sp
<i>unidentified</i>	<i>sp.</i>	hummingbird	sp
<i>unidentified</i>	<i>sp.</i>	female bunting	sp
<i>unidentified</i>	<i>sp.</i>	oriole	sp
<i>Vireo</i>	<i>bellii</i>	Bell's vireo	sp
<i>Vireo</i>	<i>vicinior</i>	grey vireo	w
<i>Xanthocephalus</i>	<i>xanthocephalus</i>	yellow-headed blackbird	w
<i>Zenaidura</i>	<i>macroura</i>	mourning dove	s,w,sp
<i>Zonotrichia</i>	<i>leucophrys</i>	white crowned sparrow	w,sp

Notes:

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

Unidentified flocks of blackbirds probably including redwing blackbirds, Brewer's blackbirds, brownheaded cowbirds and grackles were observed flying over the referenced area in the Spring.



Table 3. Three Season BIE Mammal Survey Results – Reference Site on TDCJ Property.

Genus	Species	Common Name	Reference Site
<i>Canis</i>	<i>latrans</i>	coyote	s,w
<i>Dasypus</i>	<i>novemcinctus</i>	nine-banded armadillo	s,w,sp
<i>Lepus</i>	<i>californicus</i>	jackrabbit	s
<i>Mephitis</i>	<i>mephitis</i>	striped skunk	w
<i>Odocoileus</i>	<i>virginianus</i>	white-tailed deer	sp
<i>Peromyscus</i>	<i>sp.</i>	grey mouse	sp
<i>Procyon</i>	<i>lotor</i>	raccoon	s,w
<i>Sylvilagus</i>	<i>floridanus</i>	eastern cottontail	s,w,sp

Note: Mammal tracks observed at Ref. FS-1, 2, or 3 were included in this table.

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

Table 4. Three Season BIE Amphibian and Reptile Survey Results – Reference Site on TDCJ Property.

Genus	Species	Common Name	Reference Site
<i>Acris</i>	<i>crepitans blanchardi</i>	Blanchard's cricket frog	sp
<i>Chrysemys</i>	<i>picta belli</i>	western painted turtle	w
<i>Cnemidophorus</i>	<i>gularis</i>	spotted whiptail	s,sp
<i>Crotalus</i>	<i>atrox</i>	western diamondback	s
<i>Eumeces</i>	<i>obsoletus</i>	great plains skink	sp
<i>Sceloporus</i>	<i>undulatus consobrinus</i>	South prairie lizard	s
<i>Trachemys</i>	<i>scripta elegans</i>	red eared turtle	w,sp

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

Table 5. Three Season BIE Benthic Invertebrate Survey Results – Reference Site on TDCJ Property.

Family (Genus)	Common Name	FS Ref-1	FS Ref-2	FS Ref-3
<i>Baetidae</i>	mayfly	sp	sp	
<i>Ceratopogonidae</i>	biting midge	w,sp	w,sp	s,w,sp
<i>Chironomidae</i>	midge	w,sp	w,sp	w,sp
<i>Coccinellidae</i>	terrestrial beetle		s	
<i>Coenagrionidae</i>	damsel fly	w,sp	w,sp	sp
<i>Corixidae (Trichocorixa)</i>	water boatman	s,sp	s,sp	s,w,sp
<i>Dolichopodidae</i>	long-legged flies		sp	sp
<i>Ephydriidae</i>	brine or shore fly	s,w	s,w	s
<i>Formicidae</i>	terrestrial ant	s	s	s
<i>Hydrophilidae (Hydrobius)</i>	water scavenger beetle	w		s,w,sp
<i>Lumbriculidae</i>	aquatic worm	sp	w,sp	sp
<i>Order Nematoda Family Unknown</i>			sp	s,w
<i>Ostracoda</i>	seed shrimp	sp	sp	
<i>Simuliidae</i>	black fly	sp		
<i>Stratiomyidae</i>	soldier fly			sp
<i>Tabanidae</i>	horse fly			sp

**Note:**

Sample sizes were not consistent across the stations. Therefore, the data are presented in a present-not present format. See Appendix B in each of the three individual BIEs for actual sample results for that season's field effort.

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

Table 6. Three Season BIE Fish Survey Results – Reference Site on TDCJ Property.

Genus	Species	Common Name	Season	FS Ref-1	FS Ref-2	FS Ref-3
<i>Cyprinodon</i>	<i>variegatus</i>	sheepshead minnow	s	90%	100%	95%
<i>Gambusia</i>	<i>affinis</i>	mosquito fish		10%	0%	5%
<i>Paleomonetes</i>	<i>sp.</i>	freshwater shrimp		X	X	X
<i>Cyprinodon</i>	<i>variegatus</i>	sheepshead minnow	w	50%	60%	90%
<i>Gambusia</i>	<i>affinis</i>	mosquito fish		0%	40%	10%
<i>Menidia</i>	<i>beryllina</i>	Silverside		50%	0%	0%
<i>Paleomonetes</i>	<i>sp.</i>	freshwater shrimp		X	X	X
<i>Cyprinodon</i>	<i>variegatus</i>	sheepshead minnow	sp	10.5%	52%	94%
<i>Gambusia</i>	<i>affinis</i>	mosquito fish		10.5%	10%	3%
<i>Lepisosteus</i>	<i>osseus</i>	longnose gar		0%	4.5%	0%
<i>Notropis</i>	<i>lutrensis</i>	red shiner		79%	29%	3%
<i>Notropis</i>	<i>texanus</i>	weed shiner		0%	4.5%	0%
<i>Paleomonetes</i>	<i>sp.</i>	freshwater shrimp		X	X	X

Paleomonetes are reported as present (ü) or absent (x) from each sample.

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

Table 7. Three Season BIE Aquatic Vegetation Survey Results – Reference Site on TDCJ Property.

Genus	Species	Common Name	FS Ref-1	FS Ref-2	FS Ref-3
<i>Ambrosia</i>	<i>psilotuchya</i>	ragweed		sp	sp
<i>Carex</i>	<i>sp.</i>	sedge			w
<i>Distichlis</i>	<i>spicata</i>	saltgrass	s,w,sp	s,w,sp	s,w,sp
<i>Panicum</i>	<i>virgatum</i>	switchgrass			s
<i>Rumex</i>	<i>hymenosepalus</i>	dock	w,sp	w,sp	w,sp
<i>Ruppia</i>	<i>maritima</i>	widgeon-grass	sp	sp	sp
<i>Scirpus</i>	<i>californicus</i>	bulrush		sp	s,sp
<i>Spirogyra</i>	<i>sp.</i>	filamentous algae	sp		
<i>Tamarisk</i>	<i>gallica</i>	saltcedar	s,w,sp	s,w,sp	s,w,sp

**Note:**

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

**Check List**

The following table provides a baseline checklist and description of relevant features found on the property:

Table 8. Baseline Checklist for Conservation Easement

Case Name:	Col-Tex Refinery Compensatory Restoration	Preparer's Name:	C. White, ENTRIX; C. Brigance, TNRCC
Property Name:	TDCJ Property	Date:	6/1/02

Activity	YES	NO	If YES, Description
Any agricultural, commercial, or industrial activity?	X		Horse pastures and agricultural fields are located just north of the property. Fences separate the grazing land from the riparian area (Figures 15 and 16). Historically, a surface skimmer pond was created by diverting Rock Creek in the south-central portion of the site. This skimmer pond was used to separate hydrocarbons from groundwater that seeped into the area. An old pump, tank and oil/water separator has been abandoned on the site (Figures 17 and 18).
Any mowing, farming, tilling or places where native vegetation is removed?	X		Land management practices of the TDCJ have removed all woody riparian vegetation from the north and west side of the river except for large mesquite trees that grow on the upper banks.
Any domestic livestock or other domesticated animal species?		X	There are no domestic animals on the property.
Any dumped or stored waste, trash, etc.?	X		Scrap metal and debris is found on the hillslopes located at the south-central boundary of the site (Figure 19). The debris extends along this slope and within a cut channel located just west of the Old Texas Compress building (Figure 20 and 21) just east of Rock Creek. A large erosional gully on the northside of the river has been filled with concrete rubble, wire, metal and brush (Figures 22 and 23)
Any evidence of horseback riding?		X	There does not appear to be any active horseback riding on the property. Horse-mounted guards are used at the prison units adjacent to the property. TDCJ personnel do not enter the portion of the property located south of the river on a regular basis.
Any evidence of off-road use of motorized vehicles, including recreational vehicles?		X	

Table 8, continued. Baseline Checklist for Conservation Easement

Any telephone, telegraph, cable television, electric, gas, oil, chemical, water, sewer or other utility lines/pipelines?	X		There is a gas and a petroleum pipeline as well as a water line that cross the the western portion of the property, trending N-S.
Has the property been subdivided?		X	
Any structure on the property, including signs?	X		There are gas pipeline valves located within the pipeline right-of-way at the southern property boundary (Figure 24). Signs indicating the location of the pipelines are also located in this area (Figure 25). The USGS gage station is located on TDCJ property. The stilling well is a concrete tower that rises approximately 40 feet above the ground on the south bank of the Colorado River (Figure 26).
Any non-native, exotic plants or animal species?		X	Tamarisk and other non-native vegetation are found on the property. Some invasive species include thistle and johnson grass.
Any exterior artificial illumination?		X	
Any roads or paths?	X		There are old trail roads and pipeline rights-of-way that are used as access from Highway 80. A dirt road is located at the southwestern corner of the property to access the adjacent property. A road that accesses the monitor wells and groundwater remediation system is located along the south central property boundary.
Any evidence of hunting, fishing or trapping?		X	
Any dredged/filled area or constructed ponds or dikes or other alteration in natural watercourses?	X		A stock pond was created on the property approximately 40 years ago. This existing pond is located in the west end of the property. A check dam is located at the USGS Gage Station.
Any evidence of mining?		X	
Any evidence of pollution, alteration, depletion, or extraction of water?	X		A hydrocarbon seep enters the Colorado River north of the center of the property. This seep is being managed under an Agreed Order from the TNRCC and is being actively remediated through an air sparging system. Shallow groundwater impacts are being monitored on the property.

## List of Figures

Figure 1. Aerial photograph of the subject property showing property boundary.

Figure 2. Topographic map of the subject property showing roads, monitor well locations, and other infrastructure.

Figure 3. View N from the south shore of the pond located at the western end of the property and south of the Colorado River. Note: willows and mesquite along upper banks of the pond.

Figure 4. View W from the berm at the east side of the stock pond located south of the Colorado River. View shows extent of the pond and area that is dominated by sediments entering the pond from the watershed.

Figure 5. View NNW from the hill located between the stock pond and the Colorado River. View shows Colorado River up to the Interstate 20 bridge. Note: vegetation removed from banks of the river.

Figure 6. View NW of the Colorado River riparian corridor from the northeast edge of the cliffy hills located between the Business I-20 and the Colorado River.

Figure 7. View NE of the Colorado River riparian corridor and adjacent upland habitat from the northeast edge of the cliffy hills located between the Business I-20 and the Colorado River.

Figure 8. View SSE from the north side of the Colorado River looking downstream. Note: vegetation removal along both banks of the Colorado River.

Figure 9. View E from the berm at the east side of the pond at the western end of the property and south of the Colorado River. View shows upland vegetation.

Figure 10. View of open area within upland habitat. Note: wildflowers, cactus, yucca and mesquite trees.

Figure 11. View N of Colorado River riparian area from the location of the former Sunflower Oil Co. showing monoculture of Johnson grass in the area. Note: Tamarisk dominant along the Colorado River.

Figure 12. View E from the Lone Star Gase pipeline right-of-way looking at an open area within a terrace. This open area is dominated by thistle.

Figure 13. View SW from the north seep remediation system showing an old tank located at the base of the hill slope that is covered with scrap metal and other debris.

Figure 14. View W along two-track road that services the north seep remediation system. Wells are covered with metal boxes and PVC piping connects the system.

Figure 15. View NNE from the north seep towards the TDCJ property across the river. Note: Horses grazing in adjacent fields. Flood stage is 11 feet.

Figure 16. View N toward agricultural fields at the TDCJ prison units from the south side of the Colorado River. Note: TDCJ fields plowed perpendicular to the contours. Flood stage is 12.2 feet.

Figure 17. View SW from the location of the former Sunflower Oil Co. showing an old pump motor and other debris used to separate petroleum products from water that seeped into the historic channel of Rock Creek. Note: Johnson grass is dominant vegetation in this area.

Figure 18. View NW from the location of the former Sunflower Oil Co. showing an old tank used to collect petroleum products that seeped into the historic channel of Rock Creek. Note: Johnson grass is dominant vegetation in this area.

Figure 19. View N from top of hillslope above the historic channel of Rock Creek showing steep nature of slopes. Note scrap metal and other debris. Water had entered the channel during flooding of the Colorado River.

Figure 20. View looking S at Old Texas Compress building and debris on the hillslope just N of the building from the N side of the Colorado River.

Figure 21. View of the Colorado River where the gully enters the river. View is looking S from the E side of the gully. Note: debris in the river way and Old Texas Compress building in the background.

Figure 22. View of the gully looking N from the E side of the gully at the fenceline.

Figure 23. View of head of gully looking N from the W side of the gully. Note: debris in the gully and willow growing from the debris. Big berm in the background has been created to divert water away from the gully.

Figure 24. View NE from the north side of Business I-20 right-of-way showing access gate to the Lone Star Gas pipeline valves.

Figure 25. View N from the north side of Business I-20 right-of-way just west of Rock Creek showing a sign marking the location of the Pasotex pipeline.

Figure 26. Stilling well and gate at USGS gage station.

### **List of Videos - provided as separate files**

Video 1. View from the “island” of land between the historic and current channels of Rock Creek where the old Sunflower Oil operations were. View pans from N to W.

Video 2. View of the area just west of where Rock Creek crosses Highway 80 looking N from the Highway right-of-way, panning E to W. Note: pipeline and utility right of way signs.

Video 3. View of field located just west of the Rock Creek looking NE. View pans from NW to SE.

Video 4. View of area south of the western pond from the access road, looking N and panning from W to E.



Video 5. Existing stock pond at western end of property from south side of pond, panning from west to east.

Video 6. View of Colorado River at the NW corner of the project property looking N and panning from NE to NW. Note: I-20 bridge

Video 7. View of Colorado River at the NW corner of the project property looking S and panning from E to SW. Note: berm at beginning of video clip is the western edge of the borrow pit.

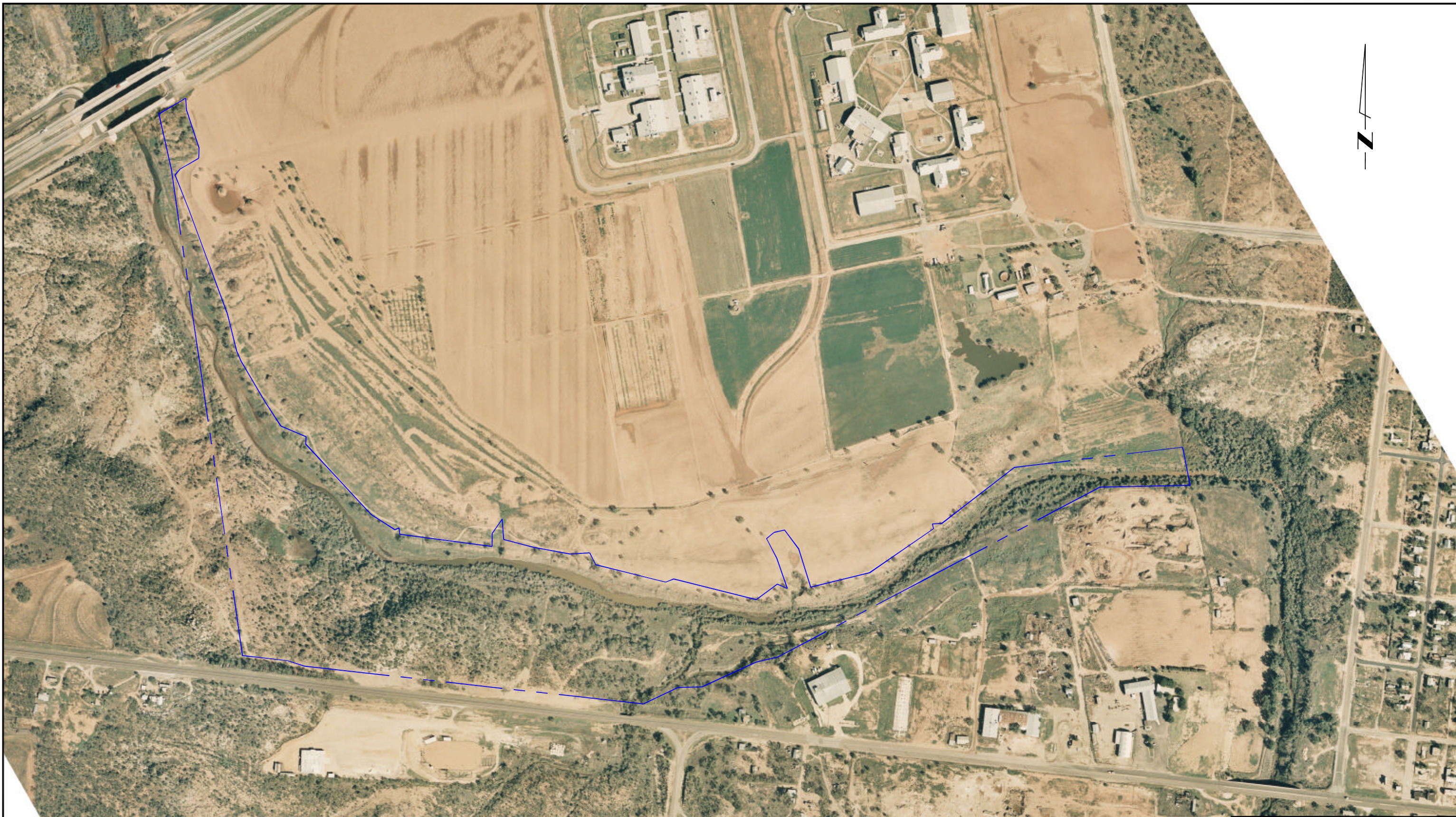
Video 8. View of the Colorado River looking S from the N side of the river where the gully enters the river. View pans from SE to SW, showing the Old Texas Compress building and hill slopes with scrap metal and debris.

Video 9. View looking E of gully at the North side of the Colorado River, panning NE to S.

Video 10. View of Colorado River and Wallace/Ware Units from the highest rocky hill within the project area. View pans from NW to SE



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APPROX. SCALE

ENTRIX

Figure 1  
Baseline Documentation  
Aerial Photo - October 2001  
TDCJ Property

PROJ. NO: 128816	CK:	DATE: 06/02
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APPROX. SCALE

ENTRIX		
Figure 2 Baseline Documentation Topographic Map TDCJ Property		
PROJ. NO: 128816	CK:	DATE: 06/02



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Figure 26. Stilling well and gate at USGS gage station.

**EXHIBIT VIII**  
**Draft Conservation Easement for Property Owned by**  
**ATOFINA Petrochemicals, Inc.**

**EXHIBIT VIII**  
**CONSERVATION EASEMENT AGREEMENT**  
**(ATOFINA Property)**

1. This CONSERVATION EASEMENT AGREEMENT (the “Conservation Easement”) is hereby entered into by ATOFINA Petrochemicals, Inc., a Delaware corporation (“Grantor”); The Natural Area Preservation Association, Inc., a non-profit corporation organized and existing under the laws of the State of Texas (“Grantee”); and the Texas Commission on Environmental Quality ("TCEQ"), the Texas Parks and Wildlife Department ("TPWD"), and the Texas General Land Office ("GLO"), agencies of the State of Texas acting as third parties with a right of enforcement (the three agencies are collectively referred to as the “Texas Natural Resource Trustees”).

3. Grantor is the owner in fee simple of certain real property situated in Mitchell County, Texas, hereinafter referred to as the “Protected Property”, and more fully described in Exhibit A attached hereto and incorporated herein by reference.

4. Pursuant to the terms of a settlement agreement between Grantor, Lone Wolf Land Company (“Lone Wolf”), Chevron Environmental Management Company (“Chevron”), and the Texas Natural Resource Trustees, the Protected Property will be subject to certain habitat restoration activities pursuant to the approved “Habitat Enhancement and Restoration Plan, Compensatory Restoration, Col-Tex Site, Colorado City, Texas” (hereinafter referred to as the “Restoration Plan”). Said Restoration Plan is hereby incorporated herein by reference. The Executive Summary from the Restoration Plan is attached as Exhibit B. A copy of the complete Restoration Plan may be obtained by written request to any of the Texas Natural Resource Trustees at the addresses provided below in Paragraph 29. Pursuant to the Restoration Plan, Grantor, Lone Wolf, and Chevron will remove certain non-native riparian vegetation, reestablish native riparian habitat species along a segment of the Colorado River, restore scrub/shrub habitat on adjacent upland areas, and enhance surface water resources for wildlife on the Protected Property and on adjacent properties.

5. Pursuant to the above-referenced settlement agreement, Grantor is required to grant this Conservation Easement over the Protected Property to Grantee with the intent and purpose of Grantor and the Texas Natural Resource Trustees being that the natural, scenic, and open-space values of the Protected Property be preserved and protected in perpetuity. Therefore, Grantor hereby voluntarily grants and conveys unto Grantee, and Grantee hereby accepts, as Holder, this Conservation Easement in perpetuity over the Protected Property, with all rights associated with the Protected Property pursuant to the terms and conditions set forth in this Conservation Easement.

6. Pursuant to the above-referenced settlement agreement, Grantor is required to grant each of the Texas Natural Resource Trustees a “third-party right of enforcement,” as that term is defined in Section 183.001(3) of the Texas Natural Resource Code, in the Conservation Easement over the Protected Property. Therefore, Grantor hereby voluntarily grants and conveys unto the Texas Natural Resource Trustees, and the Texas Natural Resource Trustees hereby accept, a right of entry and a third party right



1 of enforcement in the Conservation Easement over the Protected Property pursuant to the terms and  
2 conditions set forth in this Conservation Easement. Such right of entry and third-party right of  
3 enforcement may be exercised individually or collectively.  
4

5 7. Grantee is a nonprofit corporation with charitable and educational purposes created to protect the  
6 natural, scenic, and open-space values of real property situated in Texas, and is, therefore, a "Holder" as  
7 that term is defined in Section 183.001(2) of the Texas Natural Resources Code. By act of the Legislature  
8 of the State of Texas codified in Section 183.001 *et seq.*, of the Texas Natural Resource Code, Grantee is  
9 authorized to acquire and hold interests in land in the form of conservation easements;  
10

11 8. The conservation values of the Protected Property are documented in Exhibit C, attached hereto  
12 and incorporated herein by reference (the "Baseline Documentation"), which consists of photographs, a  
13 written description, and other documentation that provide, collectively, an accurate representation of the  
14 Protected Property at the time of this grant. Additionally, the conservation values of the Protected  
15 Property will be enhanced in the future with the restoration work to be conducted in accordance with the  
16 Restoration Plan.  
17

18 9. This Conservation Easement shall take effect upon its recording in the real property records of  
19 Mitchell County, Texas. The duration of this Conservation Easement is in perpetuity except as otherwise  
20 expressly provided herein.  
21

22 10. Any activity on or use of the Protected Property inconsistent with the purposes of this  
23 Conservation Easement is prohibited, and shall be a violation of this Conservation Easement, except as  
24 necessary to implement or otherwise comply with the approved Restoration Plan, or is otherwise  
25 necessary to investigate, monitor, or remediate affected environmental media on the Protected Property as  
26 directed or ordered by competent authority. It is understood and agreed that neither Grantor nor any of its  
27 agents, employees or representatives shall be responsible for enforcement of the provisions in this  
28 paragraph 10.1 through 10.19 of this Conservation Easement, such enforcement rights being the  
29 responsibility of Grantee and the Texas Natural Resource Trustees having been granted a third party right  
30 of enforcement. Without limiting the generality of the foregoing, the following activities by any person  
31 (including organizations of persons) on the Protected Property are prohibited:  
32

33 10.1. Construction or installation of any utilities, structures, drainage facilities, mitigation  
34 areas, or placement of any materials on, below, or above the ground, except as necessary  
35 for maintenance of any pre-existing easements and rights-of-way;  
36

37 10.2 Application of any pesticide, herbicide, or fertilizer, except as otherwise provided for in  
38 this Conservation Easement, the Restoration Plan or as necessary for maintenance of any  
39 pre-existing easements and rights-of way;  
40

41 10.3 Dumping or storing of trash, wastes, ashes, sawdust, non-composted organic wastes,  
42 sewage, garbage, scrap material, sediment discharges, oil and petroleum by-products,  
43 leached compounds, toxic fumes and any "hazardous substances" (as hereinafter  
44 defined). For the purposes of this paragraph, the phrase "hazardous substances" shall be  
45 defined as in the federal Comprehensive Environmental Response, Compensation and  
46 Liability Act (42 U.S.C. 9601 *et seq.*) and/ or a substance whose manufacture,  
47 processing, contribution in commerce, use, possession or disposal is banned, prohibited  
48 or limited pursuant to the federal Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*);  
49

- 1 10.4 Removal or destruction of vegetation except for removal of non-native species in a  
2 manner not inconsistent with the Restoration Plan;  
3  
4 10.5 Residential or agricultural uses, including, but not limited to, raising or harvesting of  
5 crops, grazing of livestock, or confinement of domesticated animals;  
6  
7 10.6 Operation of bicycles, dune buggies, motorcycles, all-terrain or off-road vehicles, or  
8 other type of mechanized vehicles except on any designated parking areas or as necessary  
9 for maintenance of any pre-existing easements and rights-of-way;  
10  
11 10.7 Excavation or removal of material except as necessary for maintenance of any pre-  
12 existing easements and rights-of-way;  
13  
14 10.8 Alteration of natural drainage and flooding patterns or dredging, filling, excavation, or  
15 construction of ponds or dikes;  
16  
17 10.9 Horseback riding, hunting, fishing, trapping, or discharge of firearms or other weapons;  
18  
19 10.10 Mining or exploration of minerals;  
20  
21 10.11 Commercial or industrial uses;  
22  
23 10.12 Exterior artificial illumination;  
24  
25 10.13 New permanent roads and widening of existing roads. Maintenance of existing roads  
26 shall be limited to removal of dead vegetation, necessary pruning or removal of trees and  
27 plants causing a hazardous condition and/or application of permeable materials (e.g. sand,  
28 gravel, crushed stone) necessary to correct or prevent erosion;  
29  
30 10.14 Subdivision of the Protected Property for any purpose;  
31  
32 10.15 Introduction of non-native, exotic, plants or animal species;  
33  
34 10.16 Pollution, alteration, depletion, or extraction of surface water, natural water courses,  
35 lakes, ponds, marshes, subsurface water, or any other water bodies;  
36  
37 10.17 Except as otherwise provided herein, specifically paragraph 243 below, removal or  
38 alteration of any physical controls and associated monitoring equipment and wells  
39 existing upon the Protected Property or as may be required in the future that serve the  
40 purpose of remediating and/or containing hazardous substances and/or oil present in the  
41 groundwater and/or soil on or adjacent to the Protected Property;  
42  
43 10.18 The installation or use of any well on the Protected Property to access or use groundwater  
44 from beneath the Protected Property, and  
45  
46 10.19 Any other activity or use that may prevent the Protected Property from remaining in an  
47 essentially natural condition for use as wildlife habitat, to protect and preserve the  
48 natural, scenic and open-space value of the Protected Property and for the provision of  
49 ecological services in perpetuity.  
50

1 11. Should Grantee and/or the Texas Natural Resource Trustees believe that Grantor may have or  
2 may be engaging in a prohibited activity, then Grantee and/or the Texas Natural Resource Trustees shall  
3 provide written notice describing the nature and circumstances of such activity to Grantor no later than  
4 thirty (30) days after discovering or becoming aware of the activity. Grantor thereafter shall have thirty  
5 (30) days from the receipt of said notice to provide written response to Grantee and the Texas Natural  
6 Resource Trustees as to whether such prohibited activity has occurred, and if so determined, Grantee and  
7 the Texas Natural Resource Trustees agree to attempt to mutually resolve with Grantor any dispute  
8 regarding the prohibited activity. However, if either Grantee and/or the Texas Natural Resource Trustees  
9 determines circumstances warrant immediate action to prevent or mitigate any prohibited activity or if a  
10 reasonable attempt to mutually resolve the dispute is unsuccessful, Grantee or the Texas Natural Resource  
11 Trustees may immediately bring an action at law or equity in a court of competent jurisdiction, against  
12 any person (including Grantor), to enjoin the prohibited use, to recover any damages arising from the  
13 prohibited use, and to seek costs incurred in pursuing such legal or equitable remedies.

14  
15  
16 12. Upon actual knowledge of such activity, Grantor shall notify the Grantee and the Texas Natural  
17 Resource Trustees of any activity on the Protected Property that is inconsistent with the intended purpose  
18 of this Conservation Easement.

19  
20 13. Grantee and the Texas Natural Resource Trustees are granted the right to preserve and protect the  
21 natural, scenic, ecological, habitat, and open-space values of the Protected Property; the right to enter the  
22 Protected Property twice a year, or more often as necessary, to inspect the Protected Property to determine  
23 whether the natural, scenic, and open-space values of the Protected Property are being or have been  
24 adversely affected or damaged; and the right to prevent or abate any activity on or use of the Protected  
25 Property by any person that is in violation of or inconsistent with the terms of this Conservation  
26 Easement.

27  
28 14. Grantee, by acceptance of this Conservation Easement, accepts only those rights provided for  
29 herein this Conservation Easement and shall not be responsible for the management or control over the  
30 Protected Property.

31  
32 15. Nothing in this Conservation Easement shall give or grant to the public any right to enter upon or  
33 to use the Protected Property or any portion thereof.

34  
35 16. It is specifically understood and agreed that this Conservation Easement does not grant the fee or  
36 any interests in oil, gas or other minerals in, on or under the Protected Property. Further, this grant is  
37 made subject to all outstanding easements covering the Protected Property.

38  
39 17. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the  
40 ownership, operation, upkeep and maintenance of the Restoration Property. Grantor shall keep the  
41 interest of Grantee free of any liens or other encumbrances incurred by Grantor. Any lien or security  
42 interest Grantor places on the Protected Property shall be subordinate to Grantee's interest in this  
43 Conservation Easement. Grantor agrees to release, hold harmless, defend and indemnify Grantee from  
44 any and all liabilities that the indemnified party may suffer or incur as a result of or arising out of the  
45 activities of the indemnified party on the Protected Property including, but not limited to, injury, losses,  
46 damages, judgments, costs, expenses and fees except to the extent that such liabilities result from or arise  
47 out of the ordinary negligence or intentional misconduct of the indemnified party.

48  
49 18. Grantor shall pay all real estate taxes and other assessments levied on the Protected Property  
50 before any default and shall furnish Grantee with satisfactory evidence of such payment upon request.



1 19. Grantor covenants and represents and warrants to Grantee as follows: (a) Grantor is the sole  
2 owner and is seised of the Protected Property in fee simple and has good right to grant and convey this  
3 Conservation Easement; (b) the Protected Property is free and clear of all liens and encumbrances, except  
4 any existing encumbrances of record; and (c) Grantee shall have the use of and enjoyment of all the  
5 benefits derived from and arising out of this Conservation Easement.  
6

7 20. To the extent allowed by applicable law, this Conservation Easement, the covenants agreed to and  
8 the terms, conditions, and restrictions imposed by this grant, shall be binding upon Grantor and its  
9 lessees, agents, representatives, successors, and assigns, and all other successors in interest to Grantor and  
10 shall be interpreted as a covenant running with the land. Grantor agrees that the terms, conditions,  
11 restrictions and purposes of this grant or references thereto will be inserted in any subsequent deed or  
12 other legal instrument by which Grantor divests either the fee simple title, any possessory interest, or any  
13 usufruct interest in the Protected Property. Grantor shall notify Grantee and the Texas Natural Resource  
14 Trustees in writing of any pending sale, lease, or other disposition of the Protected Property, or any part  
15 thereof, no less than thirty (30) days prior to such intended sale, lease, or disposition.  
16

17 21. To the extent allowed by applicable law, Grantor may not extinguish, alter, or abandon this  
18 Conservation Easement without the consent and approval in writing of Grantee and the Texas Natural  
19 Resource Trustees, or as otherwise expressly provided herein.  
20

21 22. With written approval from the Grantor and the Texas Natural Resource Trustees, the Grantee  
22 may transfer or assign this Conservation Easement to any entity that at the time of transfer, is a "qualified  
23 organization" under Section 170(h) of the U.S. Internal Revenue Code, satisfies the requirements of a  
24 "Holder" under the Texas Natural Resources Code § 183.001(2), and the entity expressly agrees to  
25 assume the responsibilities and obligations imposed on the Grantee by this Conservation Easement.  
26 Further, if Grantee ever ceases to exist, no longer qualifies under Section 170(h) of the U.S. Internal  
27 Revenue Code or no longer qualifies as a "Holder" under the Texas Natural Resources Code Section  
28 183.001(2), this Conservation Easement automatically reverts back to the Grantor who shall convey this  
29 Conservation Easement within 180 days of reversion to another qualified organization approved by the  
30 Texas Natural Resource Trustees. The Texas Natural Resource Trustees shall not unreasonably withhold  
31 said approval.  
32

33 23. Any other provision in this Conservation Easement to the contrary notwithstanding, Grantor,  
34 Lone Wolf and Chevron, and their respective authorized representatives and contractors, successors, and  
35 assigns, as well as the Texas Natural Resource Trustees, may enter onto the Protected Property for the  
36 purpose of conducting activities required and/or necessary pursuant to the Restoration Plan, or as  
37 otherwise required to investigate, monitor or remediate affected environmental media on the Protected  
38 Property as directed or ordered by competent authority.  
39

40 24. If any provision of this Conservation Easement or the application to any person or circumstances  
41 is found to be invalid, the remainder of the provisions of this Conservation Easement and the application  
42 of such provisions to persons or circumstances other than those as to which it is found to be invalid shall  
43 not be affected thereby.  
44

45 25. Any prior failure of Grantor, Grantee or the Texas Natural Resource Trustees to enforce the terms  
46 of this Conservation Easement or to ensure compliance thereof, does not thereafter waive or otherwise  
47 forfeit their right to take action as necessary to enforce and/or ensure compliance with this Conservation  
48 Easement. Grantor hereby waives any defenses of waiver, estoppel, or laches with respect to any failure  
49 to act or delay in acting by Grantee or the Texas Natural Resource Trustees to exercise any right under  
50 this Conservation Easement.  
51

26. Any reference to Grantor, Grantee, and Texas Natural Resource Trustees in this Conservation Easement shall include the successors, agents, and representatives of these entities.

27. Any other provision in this Conservation Easement to the contrary notwithstanding, Grantor shall not be responsible for injury, damage or destruction to the Protected Property or to third persons caused by a force majeure event to the extent that such damage or destruction is not a result of an act or omission of the Grantor. Such force majeure events may include acts of God, acts of war, governmental regulation or restraint, and criminal acts by third-parties that are not a result of an act or omission of Grantor. In the event a force majeure event occurs resulting in injury, damage, or destruction to the Protected Property, or any part thereof, Grantor shall notify Grantee and the Texas Natural Resource Trustees in writing, no later than ten (10) days after the date on which it becomes aware of such injury, damage, or destruction.

28. Whenever all or part of the Protected Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, Grantor, Grantee, and/or the Texas Natural Resource Trustees shall take appropriate actions at the time of the taking to recover the full value of the taking and all incidental or direct damages resulting from it, and the proceeds shall be placed in a trust account for the purpose of conducting further restoration/conservation activities, consistent with the goals of the Restoration Plan at the Protected Property, or at an alternate property. Grantee and the Texas Natural Resource Trustees shall be named as co-trustees on the account with rights to fund the additional restoration/conservation activities.

29. Any notice or demand required pursuant to this Conservation Easement shall be in writing and shall be deemed duly given and received only if hand delivered or mailed by registered mail, return receipt requested, postage prepaid. Notice shall be deemed to have been received on the date that it is hand delivered or the date of receipt as shown on the return receipt, or the date of receipt as indicated by the United States Post Office, should delivery be refused. Any notice or demand shall required pursuant to this Conservation Easement shall be addressed to the relevant parties as follows:

For ATOFINA Petrochemicals, Inc. ("Grantor"):

ATOFINA Petrochemicals, Inc.  
Col-Tex Site Remediation Manager  
15710 JFK Boulevard  
Houston, Texas 77032

For The Natural Area Preservation Association, Inc. ("Grantee" and "Holder"):

The Natural Area Preservation Association, Inc.  
1301 South IH-35, Suite 301  
Austin, Texas 78741

1 For Texas Commission on Environmental Quality (“Third-party with right of enforcement”):

2  
3 Program Director  
4 Natural Resource Trustee Program, MC-142  
5 Texas Commission on Environmental Quality  
6 PO Box 13087  
7 Austin, Texas 78711-3087  
8

9 For the Texas General Land Office (“Third-party with right of enforcement”):

10 Texas General Land Office, Room 626  
11 1700 Congress Avenue  
12 Austin, Texas 78701 – 1495  
13

14 For Texas Parks and Wildlife Department (“Third-party with right of enforcement”):

15  
16 Trustee Assessment and Restoration Program Director  
17 Texas Parks and Wildlife Department  
18 4200 Smith School Road  
19 Austin, Texas 78744  
20

21 TO HAVE AND TO HOLD this Conservation Easement unto Grantee in perpetuity, together  
22 with all and singular the appurtenances and privileges belonging or in any way pertaining thereto, either  
23 at law or in equity, either in possession or expectancy, for the proper use and benefit of Grantee, its  
24 successors and assigns forever; and Grantor does hereby bind itself TO WARRANT AND DEFEND the  
25 interest in the Protected Property granted and conveyed to Grantee under this Conservation Easement,  
26 unto Holder and its successors and assigns, against every person whomsoever lawfully claiming or to  
27 claim the same or any part thereof.  
28

29 IN WITNESS WHEREOF, Grantor freely and voluntarily grants this Conservation Easement to  
30 Grantee, and freely and voluntarily grants a Third-Party right of enforcement to the Texas Natural  
31 Resource Trustees.

1  
2 **ATOFINA PETROCHEMICALS, INC. (“GRANTOR”):**  
3  
4  
5

6  
7 \_\_\_\_\_ Date: \_\_\_\_\_  
8 Richard L. Charter  
9 Vice President  
10  
11  
12  
13

14 **ACCEPTANCE BY THE NATURAL AREA PRESERVATION ASSOCIATION, INC.**  
15 **(“GRANTEE” and “HOLDER”)**  
16  
17  
18  
19

20 \_\_\_\_\_ Date: \_\_\_\_\_  
21 David Bezanson  
22 Executive Director  
23  
24  
25

1 **FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**  
2 **("THIRD PARTY WITH RIGHT OF ENFORCEMENT")**  
3  
4  
5  
6

7  
8 \_\_\_\_\_ Date: \_\_\_\_\_  
9 Margaret Hoffman.  
10 Executive Director  
11  
12  
13  
14

15 **FOR THE TEXAS GENERAL LAND OFFICE**  
16 **("THIRD PARTY WITH RIGHT OF ENFORCEMENT")**  
17  
18  
19  
20  
21

22 \_\_\_\_\_ Date: \_\_\_\_\_  
23 LARRY R. SOWARD  
24 Chief Clerk and Senior Deputy Commissioner  
25  
26  
27  
28

29 **FOR THE TEXAS PARKS AND WILDLIFE DEPARTMENT**  
30 **("THIRD PARTY WITH RIGHT OF ENFORCEMENT")**  
31  
32  
33  
34  
35

36 \_\_\_\_\_ Date: \_\_\_\_\_  
37 Robert L. Cook  
38 Executive Director  
39  
40

1 **ACKNOWLEDGMENT**

2  
3 BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an  
4 authorized representative of ATOFINA Petrochemicals, Inc., known to be the person whose name is  
5 subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged  
6 to me that he/she executed the same as the act and deed of the property owner for the purpose and  
7 consideration therein expressed.

8  
9 Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

10  
11  
12  
13 \_\_\_\_\_  
14 Notary Public

15  
16  
17 \_\_\_\_\_  
18 Typed or Printed Name of Notary

19  
20  
21 My commission expires the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

1  
2 **ACKNOWLEDGMENT**  
3  
4

5 BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an  
6 authorized representative of The Natural Area Preservation Association, Inc., known to be the person  
7 whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A,  
8 and acknowledged to me that he/she executed the same for the purpose and consideration therein  
9 expressed.

10  
11 Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
12  
13  
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15 \_\_\_\_\_  
16 Notary Public  
17  
18

19 \_\_\_\_\_  
20 Typed or Printed Name of Notary  
21  
22

23 My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
24  
25

1  
2 **ACKNOWLEDGMENT**  
3  
4

5 BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an  
6 authorized representative of the TEXAS PARKS AND WILDLIFE DEPARTMENT, known to be the  
7 person whose name is subscribed to the foregoing instrument concerning the property described in  
8 Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration  
9 therein expressed.

10  
11 Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
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15 \_\_\_\_\_  
16 Notary Public  
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20 \_\_\_\_\_  
21 Typed or Printed Name of Notary  
22

23 My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
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25



1  
2 **ACKNOWLEDGMENT**  
3  
4

5 BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an  
6 authorized representative of the TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, known to  
7 be the person whose name is subscribed to the foregoing instrument concerning the property described in  
8 Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration  
9 therein expressed.

10  
11 Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
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15 \_\_\_\_\_  
16 Notary Public  
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18  
19

20 \_\_\_\_\_  
21 Typed or Printed Name of Notary  
22

23 My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
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2 **ACKNOWLEDGMENT**  
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4

5 BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an  
6 authorized representative of the TEXAS GENERAL LAND OFFICE, known to be the person whose  
7 name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and  
8 acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.  
9

10 Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
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14 \_\_\_\_\_  
15 Notary Public  
16  
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18 \_\_\_\_\_  
19 Typed or Printed Name of Notary  
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21

22 My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
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## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROTECTED PROPERTY

7.321 ACRES OF LAND OUT OF SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY,  
TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A POINT IN THE EAST LINE OF SAID SECTION 42 FOR THE SOUTHEAST CORNER OF  
THE TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO THE STATE OF TEXAS RECORDED  
IN MITCHELL COUNTY PUBLIC RECORDS VOLUME 530 PAGE 326  
THENCE: S 11°00'02" E - 510.48' ALONG SAID EAST LINE TO A SET 1/2" IRON PIN WITH CAP MARKED  
MORRIS 2426  
THENCE: S 89°59'55" W - 82.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: S 00°00'03" E - 77.94' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426  
THENCE: N 87°35'12" W - 600.54' TO A POINT  
THENCE: N 02°09'16" E - 261.96' TO A POINT  
THENCE: S 87°26'29" E - 135.85' TO A POINT  
THENCE: N 11°00'02" W - 293.37' TO A POINT IN THE SOUTH LINE OF THE TRACT OF LAND  
DESCRIBED AS TRACT 2 IN SAID VOLUME 530 PAGE 326  
THENCE: N 88°50'17" E - 496.00' ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING AND  
CONTAINING 7.321 ACRES OF LAND MORE OR LESS.

## EXHIBIT B

### EXECUTIVE SUMMARY FROM THE RESTORATION PLAN

#### EXECUTIVE SUMMARY

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The Texas Parks and Wildlife Department (TPWD), Texas Commission on Environmental Quality (TCEQ), and the Texas General Land Office (GLO) (“Trustees”) have prepared this Draft Habitat Enhancement and Restoration Plan (“Plan”) for the restoration of natural resources that were actually or potentially injured, lost or destroyed as a result of releases of hazardous substances or petroleum at the former Col-Tex Refinery site, located immediately west of Colorado City in Mitchell County, Texas. The former Col-Tex Refinery site lies north and south of U.S. Highway 80 (Business Interstate 20) and includes adjacent areas and portions of the Colorado River located north and east of the former refinery property. The refinery was in operation from 1924 to 1969. In 1994, it was listed as a Texas State Superfund Site and investigatory and remedial activities commenced under the supervision and guidance of the TCEQ.

The Potentially Responsible Parties (PRPs), ATOFINA Petrochemical, Inc. (formerly Fina Oil and Chemical Co.) and Chevron Environmental Management Co., together with the Trustees, collectively referred to as the “Parties” assessed and quantified potentially injured habitat using the Habitat Equivalency Analysis (HEA) approach. HEA was used to evaluate and quantify the injuries for each impacted habitat type. Specific input variables for each HEA model were based upon the data collected at the site. Using existing data, experience and best professional judgement, the Parties agreed on the size of the habitat areas potentially injured; the relative habitat services lost; and the duration of the losses. Compensatory restoration projects were proposed to restore the potentially injured natural resources to baseline conditions, and to compensate the environment and the public for the loss of ecological services.

Based on the results of the HEA calculation, a total of 1.5 acres of open water aquatic – pond construction, 2.4 acres of riverine aquatic/water quality improvement, 21 acres of riparian habitat construction, 25 acres of terrestrial habitat construction, and 35 acres of terrestrial habitat, placed in conservation in perpetuity, would compensate for losses of services provided by those habitats actually or potentially injured at the former Col-Tex Refinery site. A reasonable range of alternatives was evaluated by the Trustees prior to selecting the preferred alternative as the Proposed Action. The advantages and disadvantages of each alternative were evaluated to determine the preferred alternative. The key criteria applied during the evaluation of the alternatives included the ability to provide appropriate compensation, the likelihood of success, and the benefits to resources. In evaluating each alternative based on these criteria, the Parties were able to eliminate all but one alternative. The “best overall” candidate site where compensatory restoration can be implemented is a property located just west of Colorado City and adjacent to the former Refinery Site. This site includes the Colorado River riparian corridor and upland areas located between the river and Highway 80 (Refer to Figure 6.1). This site offers an opportunity to create a connected mosaic of habitats that are adjacent to the area where potential injuries from operation of the former Col-Tex Refinery occurred.

Six goals have been established for the resource enhancement and restoration activities along the Colorado River and at the upland site. These goals are:

- Improve local river water quality and riverine aquatic habitat in the project reach;
- Restore a native riparian corridor habitat along the Colorado River;
- Restore and enhance the native upland scrub/shrub vegetative community;
- Create a freshwater aquatic habitat system;
- Provide a sustained source of water for wildlife use; and
- Provide a limited-access public use and interpretive area for environmental education.

River Water Quality. The Colorado River water quality and aquatic habitat improvements will be accomplished through: reduction in local sediment supply to the river; creation of a canopy cover over the river through establishment of a native riparian vegetative corridor; providing a source of woody debris and leaf litter to the river for habitat diversity; and minimizing disruption to existing habitats. Erosion control measures will be installed on a large gully located on the north side of the river midway in the project reach.

Riparian Habitat. Restoration of the native riparian vegetation will provide benefits to the natural resources of the Colorado River through removal of exotic salt cedar trees and revegetation of the resulting cleared area with native woody tree, shrub, and herbaceous species. Priority activities for riparian enhancement include: salt cedar control; soil preparation through amendments; installation of a drip irrigation system for tree and shrub establishment; native revegetation; and fencing installation.

Upland Vegetative Community. Approximately 35 acres of upland habitat on the south side of the river is vegetated with native scrub/shrub species and mesquite and will be conserved in its current condition. In addition, approximately 25 acres of former agricultural fields located at the eastern end of the project site will be restored to an upland vegetative community, using native forb, grass, and shrub species. Of that 25 acres, approximately 7 acres will be planted in shrub and tree species. Activities included in the proposed scrub/shrub habitat restoration project include: surface grading and erosion control, undesirable species control, seedbed preparation, seeding, mulching, and transplanting.

Freshwater Aquatic Habitat. An existing stock pond is located on the south side of the Colorado River. A large drainageway bypasses the stock pond just east of its location. As proposed, a drainage swale will be constructed to connect this drainageway to the existing pond, thus increasing the amount of runoff that will contribute to the pond. In addition, the existing pond will be enhanced by regrading the base of the pond to increase its capacity to hold water. Erosion control measures will be used at the pond's perimeter to minimize soil erosion from the near banks. Revegetation of the ponds' perimeters will be accomplished through seeding, transplants and natural colonization.

Wildlife Water Source. A wildlife water catchment (guzzler) consisting of an apron for collecting precipitation, a tank to store collected rainfall, and a trough that provides access to the water by different-sized wildlife species will be installed in the eastern portion of the project site within the upland restoration area. The planting plan for this upland area will be designed to provide variability in food sources and adequate areas of cover adjacent to the guzzler for target species.

Public Use. At the PRP's option and with TDCJ approval, an interpretive trail and a scenic viewing area with signs is proposed on the south side of the Colorado River within the upland area. Public access to the interpretive trail would be controlled and scheduled by a local party to minimize negative impacts to the conservation area and wildlife that uses the habitats. Public access to the site would be limited at the scenic viewing area through fencing.

Monitoring. The habitat enhancement and restoration plan will be implemented starting in the fall of the first year following the execution of the settlement agreement and continue during the next two years. It

1 is anticipated that construction of all habitat elements will be completed in the spring of the third year.  
2 Monitoring will begin after construction of each restoration plan element is complete. For the riparian  
3 area, monitoring will begin as each phase is completed.

4  
5 The purpose of monitoring is to: obtain an objective assessment of project progress towards pre-  
6 determined project goals and performance standards; identify and correct problems through an adaptive  
7 management approach; and ensure that the PRPs meet their compensatory restoration obligations.  
8 Monitoring of the site will be a cooperative process. The PRP is responsible for implementing the  
9 monitoring plan. The Trustees will oversee monitoring efforts, review monitoring results and make  
10 decisions regarding corrective actions. Monitoring of the site will utilize qualitative methods; however, in  
11 the event that there is disagreement as to whether the performance criteria are being met by a particular  
12 portion of the restoration project or the project as a whole, a quantitative survey would be conducted.

13  
14 Performance standards related to plant survival have been established for the riparian and upland  
15 components of the restoration project. Performance standards have also been established for the emergent  
16 vegetation surrounding the pond enhancement based on area of cover. Specific performance criteria have  
17 not been set for the erosion control structure, pond structure, or wildlife water catchment portions of the  
18 restoration. Parameters to measure development of the pond and erosion control measures will only be  
19 recorded for comparison purposes.

20  
21 Each project component will undergo certification by the Trustees at the time of installation if installed to  
22 set specifications and upon completion of their respective monitoring period if performance standards are  
23 met. At that time, the property will continue to be held in a conservation easement in perpetuity.

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**EXHIBIT C**  
**BASELINE DOCUMENTATION**

## ATOFINA Petrochemicals, Inc. Property Baseline Documentation

### **Background**

The ATOFINA property known as the North Pond area is 7.321 acres of land out of Section 42, Block 26, T&P RY. Co. Mitchell County, Texas. The property is bounded by Colorado River riparian habitat owned by Texas Department of Criminal Justice property to the north; plowed cropland fields owned by Browne Bros. to the east and south; and open fields historically in agricultural use, currently owned by Lone Wolf Land Co. to the west. (Refer to Aerial Photo-Figure 1). A 4-strand barbed-wire fence encloses this ATOFINA property on the north, east and south side. The property boundary on the western side, which separates Lone Wolf Land Co. and ATOFINA properties is not fenced.

The North Pond area was used as an industrial site as part of the former Col-Tex Refinery from 1924 to 1969 when the refinery closed. A surface impoundment used as a disposal site for asphaltic sludges was located at the southwest corner of the property. The impoundment was excavated and removed in 1999. As required for remediation of contaminated soils, a large part of the North Pond area has been excavated (Refer to topographic map-Figure 2 and Figure 3). During these remediation efforts, approximately 20,000 to 30,000 cubic yards of soil was removed from the property. Large blocks of concrete and other debris was stockpiled in the northwest corner of the property (Figure 4). Most of this debris is on the adjacent property owned by Lone Wolf Land Co. Additional excavation will most likely be required to remove contaminated soils beneath the eastern most debris pile, which is on ATOFINA property. Monitor wells are located throughout the property (Figure 2). The only monitor well that indicated impacts to shallow groundwater is the one in the southwest corner of the property. This well indicates that arsenic in the shallow groundwater is above drinking water standards. All of these wells will be removed in the summer of 2002. Two or three monitor wells will be installed once final grading is achieved. Prior to use as part of the refinery, the property was used as a city dump. Much of the household and construction debris has been excavated from the site, although there is some material that is still buried, as shown in Figure 5. A water well located at the north-central portion of the property was plugged and abandoned in 2001.

### **Biological Inventory**

As part of the Col-Tex site (including the North Pond area) assessment, a Biological Inventory and Evaluation (BIE) was conducted to: (1) visually identify the habitat types found in the areas, and (2) characterize seasonal variations in the biological communities at the study area by conducting a qualitative assessment of the flora and fauna associated with the habitat types found in the study area. The three surveys were conducted during 1996 and 1997, one in summer (August 18-23, 1996), one in winter (December 9-11, 1996), and one in spring (April 21-25, 1997).

Due to the size, apparent homogeneity, and land cover type (sparsely vegetated) of the North Pond, transects were not established for the vegetation survey in this portion of the study area. The vegetation and habitat for this area was characterized by walking the site boundary and traversing the area to identify all dominant plants on the property. At the North Pond area, all bird counts were done from one location due to the open land type and small sizes of the parcels. The observer conducting the survey chose one location in the middle of the property in order to



see the maximum amount of the site. Mammal surveys were conducted throughout the BIE field efforts. The procedures used in the mammal surveys consisted of incidental sightings and identification of mammal tracks (i.e., prints, scat, bones, skins, dens or burrows) throughout the day, and spotlighting live animals at night. The amphibian and reptile surveys were conducted throughout the day and consisted of incidental sightings, active searching, and identification of calls and tracks.

Summaries of vegetation, bird, and reptile/amphibian surveys were recorded in tables that follow. During the 1996-97 BIE there were no observations of mammals in the North Pond Area. This finding is likely due to site disturbances that would discourage mammals from frequenting the area. In addition, the minimal protective cover observed during the three-season BIE survey does not promote mammalian usage.

Table 1. Three Season BIE Vegetation Survey Summary – North Pond Area

Genus	Species	Common Name	North Pond
<i>Amblyolepis</i>	<i>setigera</i>	Huisache daisy	sp
<i>Ambrosia</i>	<i>psilostachya</i>	ragweed	s,sp
<i>Argemone</i>	<i>polyanthemos</i>	prickly poppy	sp
<i>Bromus</i>	<i>unioloides</i>	rescue grass	sp
<i>Chenopodium</i>	<i>album</i>	lamb's quarters	sp
<i>Chloris</i>	<i>cucullata</i>	tumble windmill grass	s,w
<i>Cirsium</i>	<i>sp.</i>	thistle	sp
<i>Cnidoscolus</i>	<i>texanus</i>	Texas bullnettle	s
<i>Corydalis</i>	<i>aurea</i>	golden smoke	sp
<i>Cucurbita</i>	<i>foetidissima</i>	buffalo gourd	s,w,sp
<i>Cynodon</i>	<i>dactylon</i>	bermudagrass	s,w
<i>Descurainia</i>	<i>sp.</i>	tansey mustard	sp
<i>Erigeron</i>	<i>sp.</i>	daisy	sp
<i>Erodium</i>	<i>cicutarium</i>	cranesbill	sp
<i>Galium</i>	<i>aparine</i>	catchweed	sp
<i>Guara</i>	<i>suffulta</i>	bee blossom	s
<i>Helianthus</i>	<i>annuus</i>	common sunflower	w,sp
<i>Hoffmansoggia</i>	<i>glavca</i>	sensitive plant	sp
<i>Kochia</i>	<i>americana</i>	summer cypress	sp
<i>Lamium</i>	<i>amplexicaule</i>	henbit	sp
<i>Lepidium</i>	<i>sp.</i>	pepper wort	sp
<i>Lesquerella</i>	<i>sp.</i>	bladderpod	sp
<i>Martynia</i>	<i>louisianica</i>	common devilsclaw	s
<i>Opuntia</i>	<i>leptocaulis</i>	tasajillo	sp
<i>Opuntia</i>	<i>sp.</i>	prickly pear	s,w
<i>Panicum</i>	<i>virgatum</i>	switchgrass	s
<i>Populus</i>	<i>deltoides</i>	eastern cottonwood	s,w,sp*
<i>Prionopsis</i>	<i>ciliata</i>	saw tooth daisy	s

Table 1, continued. Three Season BIE Vegetation Survey Summary – North Pond Area

Genus	Species	Common Name	North Pond
<i>Prosopis</i>	<i>glandulosa</i>	mesquite	s,w,sp
<i>Rhus</i>	<i>sp.</i>	sumac	sp
<i>Rumex</i>	<i>hymenosephalus</i>	dock	sp
<i>Salix</i>	<i>nigra</i>	black willow	w,sp
<i>Salsola</i>	<i>iberica</i>	tumbleweed	s,w,sp
<i>Seteria</i>	<i>macrostachya</i>	plains bristle seed	s,w
<i>Solanum</i>	<i>elaeagnifolium</i>	silver leaf nightshade	s,w,sp
<i>Sorghum</i>	<i>halapense</i>	Johnsongrass	s,w,sp
<i>Sporobolus</i>	<i>cryptandrus</i>	sand dropseed	s,w
<i>Tamarix</i>	<i>gallica</i>	saltcedar	s,w,sp
<i>Trifolium</i>	<i>sp.</i>	clover	sp
<i>Ulmus</i>	<i>pumila</i>	Chinese elm	sp
<i>Verbena</i>	<i>bracteata</i>	prostrate vervain	sp
<i>Xanthocephalum</i>	<i>dracunculoides</i>	annual broomweed	s,w
<i>Yucca</i>	<i>sp.</i>	yucca	s,w

\*The eastern Cottonwood tree was removed during remediation activities.

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

Table 2. Three Season BIE Bird Survey Summary – North Pond Area

Genus	Species	Common Name	North Pond
<i>Aimophila</i>	<i>ruficeps</i>	rufous-crowned sparrow	sp
<i>Ardea</i>	<i>herodias</i>	great blue heron	sp
<i>Butorides</i>	<i>virescens</i>	green heron	sp
<i>Cardinalis</i>	<i>cardinalis</i>	cardinal	sp
<i>Casmerodius</i>	<i>albus</i>	common egret	s,w,sp
<i>Cathartes</i>	<i>aura</i>	turkey vulture	s,sp
<i>Charadrius</i>	<i>vociferus</i>	kildeer	s
<i>Colinus</i>	<i>virginianus</i>	bob white quail	s,sp
<i>Euphagus</i>	<i>cyanoccephalus</i>	Brewer's blackbird	sp
<i>Megaceryle</i>	<i>alcyon</i>	belted kingfisher	s,w
<i>Mergus</i>	<i>merganser</i>	common merganser	w
<i>Mimus</i>	<i>polyglottos</i>	mockingbird	sp
<i>Molothrus</i>	<i>ater</i>	brown headed cowbird	s,sp
<i>Muscivora</i>	<i>forficata</i>	scissor tail flycatcher	s,sp
<i>Passer</i>	<i>domesticus</i>	house sparrow	sp
<i>Petrochelidon</i>	<i>pyrrhonota</i>	cliff swallow	s,sp
<i>Phalaenoptilus</i>	<i>nuttallii</i>	common poorwill	sp
<i>Quiscalus</i>	<i>mexicanus</i>	great-tailed grackle	s,sp
<i>Quiscalus</i>	<i>quiscula</i>	common grackle	s
<i>Riparia</i>	<i>riparia</i>	barn swallow	s,sp
<i>Sturnella</i>	<i>neglecta</i>	western meadowlark	w,sp
<i>Sturnus</i>	<i>vulgaris</i>	starling	s,w
Unidentified	sp.	hummingbird	sp
Unidentified	sp.	duck	sp
Unidentified	sp.	sparrow	sp
<i>Zenaidura</i>	<i>macroura</i>	mourning dove	s,w,sp
<i>Zonotrichia</i>	<i>leucophrys</i>	white crowned sparrows	w

(s) = Observed and recorded in the Summer 1996 BIE.

(w) = Observed and recorded in the Winter 1996 BIE.

(sp) = Observed and recorded in the Spring 1997 BIE.

Table 3. Three Season BIE Amphibian and Reptile Survey Results – North Pond Area

Genus	Species	Common Name	North Pond
<i>Acris</i>	<i>crepitans blanchardi</i>	Blanchard's cricket frog	Spring '97
<i>Cnemidophorus</i>	<i>gularis</i>	spotted whiptail	Not Observed
<i>Cophosaurus</i>	<i>texanus</i>	greater earless lizard	Not Observed
<i>Crotalus</i>	<i>atrox</i>	western diamondback	Spring '97
<i>Kinosternon</i>	<i>flavescens</i>	yellow mud turtle	Not Observed
<i>Nerodia</i> <sup>1</sup>	<i>sp.</i>	water snake	Spring '97
<i>Sceloporus</i>	<i>sp.</i>	fence lizard	Not Observed
<i>Sceloporus</i>	<i>undulatus consobrinus</i>	south prairie lizard	Not Observed
<i>Terrapene</i>	<i>ornata</i>	ornate box turtle	Not Observed
<i>Trachemys</i> <sup>2</sup>	<i>scripta elegans</i>	red-eared turtle	Not Observed
<i>Trionyx</i> <sup>2</sup>	<i>spiniferous pallidus</i>	Pallid spiny softshell	Not Observed

### Check List

The following table provides a baseline checklist and description of relevant features found on the property:

Table 4. Baseline Checklist for Conservation Easement

Case Name:	Col-Tex Refinery Compensatory Restoration	Preparer's Name:	C. White, ENTRIX; C. Brigance, TNRCC
Property Name:	ATOFINA North Pond Property	Date:	6/1/02

Activity	YES	NO	If YES, Description
Any agricultural, commercial, or industrial activity?	X		Soil at the property is currently being remediated as part of clean-up activities associated with the former Col-Tex Refinery. Groundwater is being monitored on the property.
Any mowing, farming, tilling or places where native vegetation is removed?	X		Past agricultural and industrial activities have removed native vegetation. Excavation of soils has resulted in further removal of trees and other native vegetation.
Any domestic livestock or other domesticated animal species?		X	For a short time in 1999, a few cows raised as part of a 4-H project were allowed onto the property.
Any dumped or stored waste, trash, etc.?	X		Historically, this property had been a dump site for the City of Colorado City. Debris and trash materials have been exposed and/or excavated during the remediation efforts. A stockpile of concrete/debris is located on the northwest corner of the property. A pile of brush and tree stumps is located at the northeast corner of the property (Figure 6).
Any evidence of horseback riding?		X	
Any evidence of off-road use of motorized vehicles, including recreational vehicles?	X		Large construction vehicles and trucks have created a series of roads on the site. Company vehicles are using these roadways and other tracks to monitor the site and service wells, etc.
Any telephone, telegraph, cable television, electric, gas, oil, chemical, water, sewer or other utility lines/pipelines?	X		An electric line enters the property at the NE corner and terminates at the site of the plugged and abandoned water well in the north central part of the property (Refer to video 3)
Has the property been subdivided?		X	

Table 4, continued. Baseline Checklist for Conservation Easement – ATOFINA Property

Any structure on the property, including signs?	X		There are 5 monitor wells currently on the property. These wells are used to monitor shallow groundwater. All of these monitor wells will be plugged and abandoned during the summer of 2002. Once final grading and habitat restoration plans are set, 2-3 additional shallow groundwater monitor wells will be installed at the property. A water well located at the north central part of the property has been plugged and abandoned. There is signage on fences at the perimeter of the property (see Figure 7)
Any non-native, exotic plants or animal species?		X	The type of vegetation found in the North Pond reflects disturbed habitat based on the types of vegetation observed and lack of mesquite-type or expected West Texas variety of plant species on the property. The vegetation of the site is dominated by grasses and weedy forb species. There are a few trees on the site (Figure 8).
Any exterior artificial illumination?		X	
Any roads or paths?	X		There are dirt roadways that have been created during remediation activities to carry excavated soil off site. (Refer to Aerial Photo – Figure 1).
Any evidence of hunting, fishing or trapping?		X	
Any dredged/filled area or constructed ponds or dikes or other alteration in natural watercourses?		X	During excavation for the remediation of soils, isolated ponds have formed that collect rainwater and intercept shallow groundwater.
Any evidence of mining?		X	There has been no mining at the site. Excavation of soils to a depth of approximately 30 feet has occurred in some locations during remediation activities.
Any evidence of pollution, alteration, depletion, or extraction of water?	X		The monitor wells on site are used only to extract water for observation and testing. The shallow groundwater under the North Pond area is generally unimpacted. The monitor well at the southwest corner of the property is the only one that indicated presence of constituents greater than drinking water standards. This well contains slightly elevated concentrations of arsenic.

### **List of Figures**

Figure 1. Aerial photograph of subject property showing property boundary.

Figure 2. Topographic map of the subject property showing roads, monitor well locations, and other infrastructure.

Figure 3. View SW toward Browne Bros. Property from North Pond area north fenceline. Note: monitor well locations and excavated areas.

Figure 4. View NW from interior of North Pond area showing large concrete/rubble pile at the western property boundary.

Figure 5. View SE from west side of North Pond area showing large escarpment at uphill side of deepest excavated area that contains materials from municipal landfill.

Figure 6. View NE from NE corner of North Pond area. Note: brush/debris pile at the fenceline. Property boundary to the east is located at the electric utility line.

Figure 7. View S from north side of fence at northern boundary of the North Pond area showing signage located about every 50 feet along fence

Figure 8. View W from NE corner of North Pond area showing the excavation area that is closest to the river.

### **List of Videos - Provided as separate files**

Video 1. View of North Pond area from the SW corner, panning from SE to NW.

Video 2. View of North Pond area from the NE corner, panning from SSE to W.

Video 3. North Pond area from rubble pile of concrete at NW corner, panning from northeast to south.



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0 100  
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APPROX. SCALE

ENTRIX		
Figure 1 Baseline Documentation Aerial Photo - October 2001 Atofina Property		
PROJ. NO: 128816	CK:	DATE: 06/02



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<b>E N T R I X</b>		
Figure 2 Baseline Documentation Topographic Map Atofina Property		
PROJ. NO: 128816	CK:	DATE: 06/02



Figure 3. View SW toward Browne Bros. Property from North Pond area north fenceline. Note: monitor well locations and excavated areas.



Figure 4. View NW from interior of North Pond area showing large concrete/rubble pile at the western property boundary.





Figure 5. View SE from west side of North Pond area showing large escarpment at uphill side of deepest excavated area that contains materials from municipal landfill.



Figure 6. View NE from NE corner of North Pond area. Note: brush/debris pile at the fenceline. Property boundary to the east is located at the electric utility line.





Figure 7. View S from north side of fence at northern boundary of the North Pond area showing signage located about every 50 feet along fence





Figure 8. View W from NE corner of North Pond area showing the excavation area that is closest to the river.

**EXHIBIT IX**  
**Draft Conservation Easement for Property Owned by**  
**Lone Wolf Land Company**

STATE OF TEXAS                                 §  
  §  
MITCHELL COUNTY                             §

2. This is a permanent easement.

3. Grantor is the owner in fee simple of certain real property situated in Mitchell County, Texas, hereinafter referred to as the “Protected Property”, and more fully described in Exhibit A attached hereto and incorporated herein by reference.

4. Pursuant to the terms of a settlement agreement between Grantor, ATOFINA Petrochemicals, Inc. (ATOFINA), Chevron Environmental Management Company (“Chevron”), and the Texas Natural Resource Trustees, the Protected Property will be subject to certain habitat restoration activities pursuant to the approved “Habitat Enhancement and Restoration Plan, Compensatory Restoration, Col-Tex Site, Colorado City, Texas” (hereinafter referred to as the “Restoration Plan”). Said Restoration Plan is hereby incorporated herein by reference. The Executive Summary from the Restoration Plan is attached as Exhibit B. A copy of the complete Restoration Plan may be obtained by written request to any of the Texas Natural Resource Trustees at the addresses provided below in Paragraph 29. Pursuant to the Restoration Plan, Grantor, ATOFINA, and Chevron will remove certain non-native riparian vegetation, reestablish native riparian habitat species along a segment of the Colorado River, restore scrub/shrub habitat on adjacent upland areas, and enhance surface water resources for wildlife on the Protected Property and on adjacent properties.

5. Pursuant to the above-referenced settlement agreement, Grantor is required to grant this Conservation Easement over the Protected Property to Grantee with the intent and purpose of Grantor and the Texas Natural Resource Trustees being that the natural, scenic, and open-space values of the Protected Property be preserved and protected in perpetuity. Therefore, Grantor hereby voluntarily grants and conveys unto Grantee, and Grantee hereby accepts, as Holder, this Conservation Easement in perpetuity over the Protected Property, with all rights associated with the Protected Property pursuant to the terms and conditions set forth in this Conservation Easement.

6. Pursuant to the above-referenced settlement agreement, Grantor is required to grant each of the Texas Natural Resource Trustees a “third-party right of enforcement,” as that term is defined in Section 183.001(3) of the Texas Natural Resource Code, in the Conservation Easement over the Protected Property. Therefore, Grantor hereby voluntarily grants and conveys unto the Texas Natural Resource Trustees, and the Texas Natural Resource Trustees hereby accept, a right of entry and a third party right

1 of enforcement in the Conservation Easement over the Protected Property pursuant to the terms and  
2 conditions set forth in this Conservation Easement. Such right of entry and third-party right of  
3 enforcement may be exercised individually or collectively.  
4

5 7. Grantee is a nonprofit corporation with charitable and educational purposes created to protect the  
6 natural, scenic, and open-space values of real property situated in Texas, and is, therefore, a "Holder" as  
7 that term is defined in Section 183.001(2) of the Texas Natural Resources Code. By act of the Legislature  
8 of the State of Texas codified in Section 183.001 *et seq.*, of the Texas Natural Resource Code, Grantee is  
9 authorized to acquire and hold interests in land in the form of conservation easements;  
10

11 8. The conservation values of the Protected Property are documented in Exhibit C, attached hereto  
12 and incorporated herein by reference (the "Baseline Documentation"), which consists of photographs, a  
13 written description, and other documentation that provide, collectively, an accurate representation of the  
14 Protected Property at the time of this grant. Additionally, the conservation values of the Protected  
15 Property will be enhanced in the future with the restoration work to be conducted in accordance with the  
16 Restoration Plan.  
17

18 9. This Conservation Easement shall take effect upon its recording in the real property records of  
19 Mitchell County, Texas. The duration of this Conservation Easement is in perpetuity except as otherwise  
20 expressly provided herein.  
21

22 10. Any activity on or use of the Protected Property inconsistent with the purposes of this  
23 Conservation Easement is prohibited, and shall be a violation of this Conservation Easement, except as  
24 necessary to implement or otherwise comply with the approved Restoration Plan, or is otherwise  
25 necessary to investigate, monitor, or remediate affected environmental media on the Protected Property as  
26 directed or ordered by competent authority. It is understood and agreed that neither Grantor nor any of its  
27 agents, employees or representatives shall be responsible for enforcement of the provisions in this  
28 paragraph 10.1 through 10.19 of this Conservation Easement, such enforcement rights being the  
29 responsibility of Grantee and the Texas Natural Resource Trustees having been granted a third party right  
30 of enforcement. Without limiting the generality of the foregoing, the following activities by any person  
31 (including organizations of persons) on the Protected Property are prohibited:  
32

33 10.1. Construction or installation of any utilities, structures, drainage facilities, mitigation  
34 areas, or placement of any materials on, below, or above the ground, except as necessary  
35 for maintenance of any pre-existing easements and rights-of-way;  
36

37 10.2 Application of any pesticide, herbicide, or fertilizer, except as otherwise provided for in  
38 this Conservation Easement, the Restoration Plan or as necessary for maintenance of any  
39 pre-existing easements and rights-of way;  
40

41 10.3 Dumping or storing of trash, wastes, ashes, sawdust, non-composted organic wastes,  
42 sewage, garbage, scrap material, sediment discharges, oil and petroleum by-products,  
43 leached compounds, toxic fumes and any "hazardous substances" (as hereinafter  
44 defined). For the purposes of this paragraph, the phrase "hazardous substances" shall be  
45 defined as in the federal Comprehensive Environmental Response, Compensation and  
46 Liability Act (42 U.S.C. 9601 *et seq.*) and/ or a substance whose manufacture,  
47 processing, contribution in commerce, use, possession or disposal is banned, prohibited  
48 or limited pursuant to the federal Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*);  
49

- 1 10.4 Removal or destruction of vegetation except for removal of non-native species in a  
2 manner not inconsistent with the Restoration Plan;  
3  
4 10.5 Residential or agricultural uses, including, but not limited to, raising or harvesting of  
5 crops, grazing of livestock, or confinement of domesticated animals;  
6  
7 10.6 Operation of bicycles, dune buggies, motorcycles, all-terrain or off-road vehicles, or  
8 other type of mechanized vehicles except on any designated parking areas or as necessary  
9 for maintenance of any pre-existing easements and rights-of-way;  
10  
11 10.7 Excavation or removal of material except as necessary for maintenance of any pre-  
12 existing easements and rights-of-way;  
13  
14 10.8 Alteration of natural drainage and flooding patterns or dredging, filling, excavation, or  
15 construction of ponds or dikes;  
16  
17 10.9 Horseback riding, hunting, fishing, trapping, or discharge of firearms or other weapons;  
18  
19 10.10 Mining or exploration of minerals;  
20  
21 10.11 Commercial or industrial uses;  
22  
23 10.12 Exterior artificial illumination;  
24  
25 10.13 New permanent roads and widening of existing roads. Maintenance of existing roads  
26 shall be limited to removal of dead vegetation, necessary pruning or removal of trees and  
27 plants causing a hazardous condition and/or application of permeable materials (e.g. sand,  
28 gravel, crushed stone) necessary to correct or prevent erosion;  
29  
30 10.14 Subdivision of the Protected Property for any purpose;  
31  
32 10.15 Introduction of non-native, exotic, plants or animal species;  
33  
34 10.16 Pollution, alteration, depletion, or extraction of surface water, natural water courses,  
35 lakes, ponds, marshes, subsurface water, or any other water bodies;  
36  
37 10.17 Except as otherwise provided herein, specifically paragraph 243 below, removal or  
38 alteration of any physical controls and associated monitoring equipment and wells  
39 existing upon the Protected Property or as may be required in the future that serve the  
40 purpose of remediating and/or containing hazardous substances and/or oil present in the  
41 groundwater and/or soil on or adjacent to the Protected Property;  
42  
43 10.18 The installation or use of any well on the Protected Property to access or use groundwater  
44 from beneath the Protected Property, and  
45  
46 10.19 Any other activity or use that may prevent the Protected Property from remaining in an  
47 essentially natural condition for use as wildlife habitat, to protect and preserve the  
48 natural, scenic and open-space value of the Protected Property and for the provision of  
49 ecological services in perpetuity.  
50

11. Should Grantee and/or the Texas Natural Resource Trustees believe that Grantor may have or may be engaging in a prohibited activity, then Grantee and/or the Texas Natural Resource Trustees shall provide written notice describing the nature and circumstances of such activity to Grantor no later than thirty (30) days after discovering or becoming aware of the activity. Grantor thereafter shall have thirty (30) days from the receipt of said notice to provide written response to Grantee and the Texas Natural Resource Trustees as to whether such prohibited activity has occurred, and if so determined, Grantee and the Texas Natural Resource Trustees agree to attempt to mutually resolve with Grantor any dispute regarding the prohibited activity. However, if either Grantee and/or the Texas Natural Resource Trustees determines circumstances warrant immediate action to prevent or mitigate any prohibited activity or if a reasonable attempt to mutually resolve the dispute is unsuccessful, Grantee or the Texas Natural Resource Trustees may immediately bring an action at law or equity in a court of competent jurisdiction, against any person (including Grantor), to enjoin the prohibited use, to recover any damages arising from the prohibited use, and to seek costs incurred in pursuing such legal or equitable remedies.

12. Upon actual knowledge of such activity, Grantor shall notify the Grantee and the Texas Natural Resource Trustees of any activity on the Protected Property that is inconsistent with the intended purpose of this Conservation Easement.

13. Grantee and the Texas Natural Resource Trustees are granted the right to preserve and protect the natural, scenic, ecological, habitat, and open-space values of the Protected Property; the right to enter the Protected Property twice a year, or more often as necessary, to inspect the Protected Property to determine whether the natural, scenic, and open-space values of the Protected Property are being or have been adversely affected or damaged; and the right to prevent or abate any activity on or use of the Protected Property by any person that is in violation of or inconsistent with the terms of this Conservation Easement.

14. Grantee, by acceptance of this Conservation Easement, accepts only those rights provided for herein this Conservation Easement and shall not be responsible for the management or control over the Protected Property.

15. Nothing in this Conservation Easement shall give or grant to the public any right to enter upon or to use the Protected Property or any portion thereof.

16. It is specifically understood and agreed that this Conservation Easement does not grant the fee or any interests in oil, gas or other minerals in, on or under the Protected Property. Further, this grant is made subject to all outstanding easements covering the Protected Property.

17. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Restoration Property. Grantor shall keep the interest of Grantee free of any liens or other encumbrances incurred by Grantor. Any lien or security interest Grantor places on the Protected Property shall be subordinate to Grantee's interest in this Conservation Easement. Grantor agrees to release, hold harmless, defend and indemnify Grantee from any and all liabilities that the indemnified party may suffer or incur as a result of or arising out of the activities of the indemnified party on the Protected Property including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees except to the extent that such liabilities result from or arise out of the ordinary negligence or intentional misconduct of the indemnified party.

18. Grantor shall pay all real estate taxes and other assessments levied on the Protected Property before any default and shall furnish Grantee with satisfactory evidence of such payment upon request.

19. Grantor covenants and represents and warrants to Grantee as follows: (a) Grantor is the sole owner and is seised of the Protected Property in fee simple and has good right to grant and convey this Conservation Easement; (b) the Protected Property is free and clear of all liens and encumbrances, except any existing encumbrances of record; and (c) Grantee shall have the use of and enjoyment of all the benefits derived from and arising out of this Conservation Easement.

20. To the extent allowed by applicable law, this Conservation Easement, the covenants agreed to and the terms, conditions, and restrictions imposed by this grant, shall be binding upon Grantor and its lessees, agents, representatives, successors, and assigns, and all other successors in interest to Grantor and shall be interpreted as a covenant running with the land. Grantor agrees that the terms, conditions, restrictions and purposes of this grant or references thereto will be inserted in any subsequent deed or other legal instrument by which Grantor divests either the fee simple title, any possessory interest, or any usufruct interest in the Protected Property. Grantor shall notify Grantee and the Texas Natural Resource Trustees in writing of any pending sale, lease, or other disposition of the Protected Property, or any part thereof, no less than thirty (30) days prior to such intended sale, lease, or disposition.

21. To the extent allowed by applicable law, Grantor may not extinguish, alter, or abandon this Conservation Easement without the consent and approval in writing of Grantee and the Texas Natural Resource Trustees, or as otherwise expressly provided herein.

22. With written approval from the Grantor and the Texas Natural Resource Trustees, the Grantee may transfer or assign this Conservation Easement to any entity that at the time of transfer, is a "qualified organization" under Section 170(h) of the U.S. Internal Revenue Code, satisfies the requirements of a "Holder" under the Texas Natural Resources Code § 183.001(2), and the entity expressly agrees to assume the responsibilities and obligations imposed on the Grantee by this Conservation Easement. Further, if Grantee ever ceases to exist, no longer qualifies under Section 170(h) of the U.S. Internal Revenue Code or no longer qualifies as a "Holder" under the Texas Natural Resources Code Section 183.001(2), this Conservation Easement automatically reverts back to the Grantor who shall convey this Conservation Easement within 180 days of reversion to another qualified organization approved by the Texas Natural Resource Trustees. The Texas Natural Resource Trustees shall not unreasonably withhold said approval.

23. Any other provision in this Conservation Easement to the contrary notwithstanding, Grantor, ATOFINA and Chevron, and their respective authorized representatives and contractors, successors, and assigns, as well as the Texas Natural Resource Trustees, may enter onto the Protected Property for the purpose of conducting activities required and/or necessary pursuant to the Restoration Plan, or as otherwise required to investigate, monitor or remediate affected environmental media on the Protected Property as directed or ordered by competent authority.

24. If any provision of this Conservation Easement or the application to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

25. Any prior failure of Grantor, Grantee or the Texas Natural Resource Trustees to enforce the terms of this Conservation Easement or to ensure compliance thereof, does not thereafter waive or otherwise forfeit their right to take action as necessary to enforce and/or ensure compliance with this Conservation Easement. Grantor hereby waives any defenses of waiver, estoppel, or laches with respect to any failure to act or delay in acting by Grantee or the Texas Natural Resource Trustees to exercise any right under this Conservation Easement.



26. Any reference to Grantor, Grantee, and Texas Natural Resource Trustees in this Conservation Easement shall include the successors, agents, and representatives of these entities.

27. Any other provision in this Conservation Easement to the contrary notwithstanding, Grantor shall not be responsible for injury, damage or destruction to the Protected Property or to third persons caused by a force majeure event to the extent that such damage or destruction is not a result of an act or omission of the Grantor. Such force majeure events may include acts of God, acts of war, governmental regulation or restraint, and criminal acts by third-parties that are not a result of an act or omission of Grantor. In the event a force majeure event occurs resulting in injury, damage, or destruction to the Protected Property, or any part thereof, Grantor shall notify Grantee and the Texas Natural Resource Trustees in writing, no later than ten (10) days after the date on which it becomes aware of such injury, damage, or destruction.

28. Whenever all or part of the Protected Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, Grantor, Grantee, and/or the Texas Natural Resource Trustees shall take appropriate actions at the time of the taking to recover the full value of the taking and all incidental or direct damages resulting from it, and the proceeds shall be placed in a trust account for the purpose of conducting further restoration/conservation activities, consistent with the goals of the Restoration Plan at the Protected Property, or at an alternate property. Grantee and the Texas Natural Resource Trustees shall be named as co-trustees on the account with rights to fund the additional restoration/conservation activities.

29. Any notice or demand required pursuant to this Conservation Easement shall be in writing and shall be deemed duly given and received only if hand delivered or mailed by registered mail, return receipt requested, postage prepaid. Notice shall be deemed to have been received on the date that it is hand delivered or the date of receipt as shown on the return receipt, or the date of receipt as indicated by the United States Post Office, should delivery be refused. Any notice or demand required pursuant to this Conservation Easement shall be addressed to the relevant parties as follows:

For ATOFINA Petrochemicals, Inc. ("Grantor"):

ATOFINA Petrochemicals, Inc.  
Col-Tex Site Remediation Manager  
15710 JFK Boulevard  
Houston, Texas 77032

For The Natural Area Preservation Association, Inc. ("Grantee" and "Holder"):

The Natural Area Preservation Association, Inc.  
1301 South IH-35, Suite 301  
Austin, Texas 78741

1 For Texas Commission on Environmental Quality (“Third-party with right of enforcement”):

2  
3 Program Director  
4 Natural Resource Trustee Program, MC-142  
5 Texas Commission on Environmental Quality  
6 PO Box 13087  
7 Austin, Texas 78711-3087  
8

9 For the Texas General Land Office (“Third-party with right of enforcement”):

10 Texas General Land Office, Room 626  
11 1700 Congress Avenue  
12 Austin, Texas 78701 – 1495  
13

14 For Texas Parks and Wildlife Department (“Third-party with right of enforcement”):

15  
16 Trustee Assessment and Restoration Program Director  
17 Texas Parks and Wildlife Department  
18 4200 Smith School Road  
19 Austin, Texas 78744  
20

21 TO HAVE AND TO HOLD this Conservation Easement unto Grantee in perpetuity, together  
22 with all and singular the appurtenances and privileges belonging or in any way pertaining thereto, either  
23 at law or in equity, either in possession or expectancy, for the proper use and benefit of Grantee, its  
24 successors and assigns forever; and Grantor does hereby bind itself TO WARRANT AND DEFEND the  
25 interest in the Protected Property granted and conveyed to Grantee under this Conservation Easement,  
26 unto Holder and its successors and assigns, against every person whomsoever lawfully claiming or to  
27 claim the same or any part thereof.  
28

29 IN WITNESS WHEREOF, Grantor freely and voluntarily grants this Conservation Easement to  
30 Grantee, and freely and voluntarily grants a Third-Party right of enforcement to the Texas Natural  
31 Resource Trustees.

1  
2 **ATOFINA PETROCHEMICALS, INC. (“GRANTOR”):**  
3  
4  
5  
6  
7  
8

9 \_\_\_\_\_ Date: \_\_\_\_\_  
10 Richard L. Charter  
11 Vice President  
12  
13  
14  
15  
16  
17  
18  
19

20  
21 **ACCEPTANCE BY THE NATURAL AREA PRESERVATION ASSOCIATION, INC.**  
22 **(“GRANTEE” and “HOLDER”)**  
23  
24  
25  
26  
27

28 \_\_\_\_\_ Date: \_\_\_\_\_  
29 David Bezanson  
30 Executive Director  
31  
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2 **FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**  
3 **(“THIRD PARTY WITH RIGHT OF ENFORCEMENT”)**  
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9 \_\_\_\_\_ Date: \_\_\_\_\_  
10 Margaret Hoffman  
11 Executive Director  
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16 **FOR THE TEXAS GENERAL LAND OFFICE**  
17 **(“THIRD PARTY WITH RIGHT OF ENFORCEMENT”)**  
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23 \_\_\_\_\_ Date: \_\_\_\_\_  
24 LARRY R. SOWARD  
25 Chief Clerk and Senior Deputy Commissioner  
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30 **FOR THE TEXAS PARKS AND WILDLIFE DEPARTMENT**  
31 **(“THIRD PARTY WITH RIGHT OF ENFORCEMENT”)**  
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37 \_\_\_\_\_ Date: \_\_\_\_\_  
38 Robert L. Cook  
39 Executive Director  
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**ACKNOWLEDGMENT**

BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an authorized representative of ATOFINA Petrochemicals, Inc., known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same as the act and deed of the property owner for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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## ACKNOWLEDGMENT

BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an authorized representative of The Natural Area Preservation Association, Inc., known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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## ACKNOWLEDGMENT

BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an authorized representative of the TEXAS PARKS AND WILDLIFE DEPARTMENT, known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**ACKNOWLEDGMENT**

BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an authorized representative of the TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.



**ACKNOWLEDGMENT**

BEFORE ME, a Notary Public, on this day personally appeared \_\_\_\_\_, an authorized representative of the TEXAS GENERAL LAND OFFICE, known to be the person whose name is subscribed to the foregoing instrument concerning the property described in Exhibit A, and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROTECTED PROPERTY

17.834 ACRES OF LAND OUT OF THE WEST COLORADO ADDITION (MITCHELL COUNTY PLAT RECORDS SLIDES 48 & 49) MITCHELL COUNTY, TEXAS, AND SECTION 42, BLOCK 26, T&P RY. CO. SURVEYS, MITCHELL COUNTY, TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 IN THE NORTH RIGHT OF WAY OF BUSINESS LOOP 20 FOR THE MOST SOUTHERLY CORNER OF THE TRACT OF LAND DESCRIBED AS TRACT 2 IN A DEED TO THE STATE OF TEXAS RECORDED IN MITCHELL COUNTY PUBLIC RECORDS VOLUME 530 PAGE 326

THENCE: N 64°25'04" E - 209.92' ALONG THE SOUTH LINE OF THE TRACT OF LAND DESCRIBED IN SAID VOLUME 530 PAGE 326

THENCE: N 88°37'17" E - 132.94' ALONG SAID SOUTH LINE

THENCE: N 65°34'17" E - 237.84' ALONG SAID SOUTH LINE

THENCE: N 64°18'17" E - 86.00' ALONG SAID SOUTH LINE

THENCE: N 77°01'31" E - 122.85' ALONG SAID SOUTH LINE

THENCE: N 62°12'17" E - 2002.70' ALONG SAID SOUTH LINE

THENCE: S 11°00'02" E - 293.37' TO A POINT

THENCE: N 87°26'29" W - 135.85' TO A POINT

THENCE: S 02°09'16" W - 261.96' TO A POINT

THENCE: N 87°35'12" W - 15.45' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 00°00'17" E - 58.47' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 89°59'51" W - 61.62' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 00°00'30" W - 55.88' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 89°02'53" W - 47.00' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 11°09'13" E - 34.50' TO A FOUND 1/2" IRON PIN

THENCE: N 84°09'52" W - 62.92' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE N.E. CORNER OF LOT 12, BLOCK 8, OF SAID WEST COLORADO ADDITION

THENCE: S 11°40'55" E - 157.24' TO A FOUND 1/2" IRON PIN FOR THE S.E. CORNER OF LOT 14, BLOCK 8, OF SAID WEST COLORADO ADDITION

THENCE: N 84°13'42" W - 414.84' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE N.E. CORNER OF LOT 5, BLOCK 9, OF SAID WEST COLORADO ADDITION

THENCE: S 05°46'18" W - 330.00' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE S.E. CORNER OF LOT 13, BLOCK 6, OF SAID WEST COLORADO ADDITION

THENCE: N 84°13'42" W - 860.41' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: S 61°41'51" W - 240.96' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE S.W. CORNER OF LOT 16, BLOCK 4, OF SAID WEST COLORADO ADDITION

THENCE: S 05°37'50" W - 197.69' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426

THENCE: N 84°33'49" W - 100.41' TO A FOUND 1/2" IRON PIN FOR THE N.E. CORNER OF A TRACT OF LAND DESCRIBED IN A DEED TO MITCHELL COUNTY RECORDED IN MITCHELL COUNTY DEED RECORDS VOLUME 77 PAGE 482

THENCE: N 85°57'26" W - 125.86' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 FOR THE N.W. CORNER OF A TRACT OF LAND DESCRIBED IN A DEED TO KELLEY RECORDED IN MITCHELL COUNTY DEED RECORDS VOLUME 262 PAGE 303

THENCE: S 09°52'51" W - 61.22' TO A SET 1/2" IRON PIN WITH CAP MARKED MORRIS 2426 IN THE NORTH RIGHT OF WAY OF BUSINESS LOOP 20

THENCE: N 76°32'07" W - 224.39' ALONG SAID NORTH RIGHT OF WAY TO A FOUND 1/2" IRON PIN

THENCE: N 83°45'14" W - 283.84' ALONG SAID NORTH RIGHT OF WAY TO THE POINT OF BEGINNING AND CONTAINING 17.834 ACRES OF LAND MORE OR LESS.

**FINAL DRAFT**

*October 18, 2002*

# EXHIBIT B

## EXECUTIVE SUMMARY

### FROM THE RESTORATION PLAN

#### EXECUTIVE SUMMARY

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The Texas Parks and Wildlife Department (TPWD), Texas Commission on Environmental Quality (TCEQ), and the Texas General Land Office (GLO) ("Trustees") have prepared this Draft Habitat Enhancement and Restoration Plan ("Plan") for the restoration of natural resources that were actually or potentially injured, lost or destroyed as a result of releases of hazardous substances or petroleum at the former Col-Tex Refinery site, located immediately west of Colorado City in Mitchell County, Texas. The former Col-Tex Refinery site lies north and south of U.S. Highway 80 (Business Interstate 20) and includes adjacent areas and portions of the Colorado River located north and east of the former refinery property. The refinery was in operation from 1924 to 1969. In 1994, it was listed as a Texas State Superfund Site and investigatory and remedial activities commenced under the supervision and guidance of the TCEQ.

The Potentially Responsible Parties (PRPs), ATOFINA Petrochemical, Inc. (formerly Fina Oil and Chemical Co.) and Chevron Environmental Management Co., together with the Trustees, collectively referred to as the "Parties" assessed and quantified potentially injured habitat using the Habitat Equivalency Analysis (HEA) approach. HEA was used to evaluate and quantify the injuries for each impacted habitat type. Specific input variables for each HEA model were based upon the data collected at the site. Using existing data, experience and best professional judgement, the Parties agreed on the size of the habitat areas potentially injured; the relative habitat services lost; and the duration of the losses. Compensatory restoration projects were proposed to restore the potentially injured natural resources to baseline conditions, and to compensate the environment and the public for the loss of ecological services.

Based on the results of the HEA calculation, a total of 1.5 acres of open water aquatic – pond construction, 2.4 acres of riverine aquatic/water quality improvement, 21 acres of riparian habitat construction, 25 acres of terrestrial habitat construction, and 35 acres of terrestrial habitat, placed in conservation in perpetuity, would compensate for losses of services provided by those habitats actually or potentially injured at the former Col-Tex Refinery site. A reasonable range of alternatives was evaluated by the Trustees prior to selecting the preferred alternative as the Proposed Action. The advantages and disadvantages of each alternative were evaluated to determine the preferred alternative. The key criteria applied during the evaluation of the alternatives included the ability to provide appropriate compensation, the likelihood of success, and the benefits to resources. In evaluating each alternative based on these criteria, the Parties were able to eliminate all but one alternative. The "best overall" candidate site where compensatory restoration can be implemented is a property located just west of Colorado City and adjacent to the former Refinery Site. This site includes the Colorado River riparian corridor and upland areas located between the river and Highway 80 (Refer to Figure 6.1). This site offers an opportunity to create a connected mosaic of habitats that are adjacent to the area where potential injuries from operation of the former Col-Tex Refinery occurred.

Six goals have been established for the resource enhancement and restoration activities along the Colorado River and at the upland site. These goals are:

- Improve local river water quality and riverine aquatic habitat in the project reach;
- Restore a native riparian corridor habitat along the Colorado River;
- Restore and enhance the native upland scrub/shrub vegetative community;
- Create a freshwater aquatic habitat system;
- Provide a sustained source of water for wildlife use; and
- Provide a limited-access public use and interpretive area for environmental education.

River Water Quality. The Colorado River water quality and aquatic habitat improvements will be accomplished through: reduction in local sediment supply to the river; creation of a canopy cover over the river through establishment of a native riparian vegetative corridor; providing a source of woody debris and leaf litter to the river for habitat diversity; and minimizing disruption to existing habitats. Erosion control measures will be installed on a large gully located on the north side of the river midway in the project reach.

Riparian Habitat. Restoration of the native riparian vegetation will provide benefits to the natural resources of the Colorado River through removal of exotic salt cedar trees and revegetation of the resulting cleared area with native woody tree, shrub, and herbaceous species. Priority activities for riparian enhancement include: salt cedar control; soil preparation through amendments; installation of a drip irrigation system for tree and shrub establishment; native revegetation; and fencing installation.

Upland Vegetative Community. Approximately 35 acres of upland habitat on the south side of the river is vegetated with native scrub/shrub species and mesquite and will be conserved in its current condition. In addition, approximately 25 acres of former agricultural fields located at the eastern end of the project site will be restored to an upland vegetative community, using native forb, grass, and shrub species. Of that 25 acres, approximately 7 acres will be planted in shrub and tree species. Activities included in the proposed scrub/shrub habitat restoration project include: surface grading and erosion control, undesirable species control, seedbed preparation, seeding, mulching, and transplanting.

Freshwater Aquatic Habitat. An existing stock pond is located on the south side of the Colorado River. A large drainageway bypasses the stock pond just east of its location. As proposed, a drainage swale will be constructed to connect this drainageway to the existing pond, thus increasing the amount of runoff that will contribute to the pond. In addition, the existing pond will be enhanced by regrading the base of the pond to increase its capacity to hold water. Erosion control measures will be used at the pond's perimeter to minimize soil erosion from the near banks. Revegetation of the ponds' perimeters will be accomplished through seeding, transplants and natural colonization.

Wildlife Water Source. A wildlife water catchment (guzzler) consisting of an apron for collecting precipitation, a tank to store collected rainfall, and a trough that provides access to the water by different-sized wildlife species will be installed in the eastern portion of the project site within the upland restoration area. The planting plan for this upland area will be designed to provide variability in food sources and adequate areas of cover adjacent to the guzzler for target species.

Public Use. At the PRP's option and with TDCJ approval, an interpretive trail and a scenic viewing area with signs is proposed on the south side of the Colorado River within the upland area. Public access to the interpretive trail would be controlled and scheduled by a local party to minimize negative impacts to the conservation area and wildlife that uses the habitats. Public access to the site would be limited at the scenic viewing area through fencing.

Monitoring. The habitat enhancement and restoration plan will be implemented starting in the fall of the first year following the execution of the settlement agreement and continue during the next two years. It

1 is anticipated that construction of all habitat elements will be completed in the spring of the third year.  
2 Monitoring will begin after construction of each restoration plan element is complete. For the riparian  
3 area, monitoring will begin as each phase is completed.

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5 The purpose of monitoring is to: obtain an objective assessment of project progress towards pre-  
6 determined project goals and performance standards; identify and correct problems through an adaptive  
7 management approach; and ensure that the PRPs meet their compensatory restoration obligations.  
8 Monitoring of the site will be a cooperative process. The PRP is responsible for implementing the  
9 monitoring plan. The Trustees will oversee monitoring efforts, review monitoring results and make  
10 decisions regarding corrective actions. Monitoring of the site will utilize qualitative methods; however, in  
11 the event that there is disagreement as to whether the performance criteria are being met by a particular  
12 portion of the restoration project or the project as a whole, a quantitative survey would be conducted.

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14 Performance standards related to plant survival have been established for the riparian and upland  
15 components of the restoration project. Performance standards have also been established for the emergent  
16 vegetation surrounding the pond enhancement based on area of cover. Specific performance criteria have  
17 not been set for the erosion control structure, pond structure, or wildlife water catchment portions of the  
18 restoration. Parameters to measure development of the pond and erosion control measures will only be  
19 recorded for comparison purposes.

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21 Each project component will undergo certification by the Trustees at the time of installation if installed to  
22 set specifications and upon completion of their respective monitoring period if performance standards are  
23 met. At that time, the property will continue to be held in a conservation easement in perpetuity.

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## **EXHIBIT C**

### **BASELINE DOCUMENTATION**

## Lone Wolf Land Co. Property Baseline Documentation

### **Background**

The Lone Wolf Land Co. property is 17.834 acres of land out of West Colorado Addition and Section 42, Block 26, T&P RY. Co. Mitchell County, Texas. The property is bounded by Colorado River riparian habitat owned by Texas Department of Criminal Justice property to the north; disturbed and excavated land owned by ATOFINA Petrochemicals, Inc. to the east; agricultural, industrial and open land also owned by Lone Wolf Land Co. to the south. At The western side of the subject property, the southern boundary is the City of Colorado City right-of-way for Highway 80 (Business I-20) (Refer to Aerial Photo – Figure 1). To the north, the subject property is bounded by a steep hillslope currently covered in scrap metal and other debris and also by the historic channel of Rock Creek (Figure 2). Rock Creek had been dammed and the main flow was diverted to an adjacent channel so that the former creek could be used as a skimmer pond to separate groundwater from petroleum products that seeped into the natural channel (Figure 3). The entire property has been acquired and consolidated by LWL in the last few years from various parcels. Four-strand barbed-wire fence is located just north of the northern property boundary at the eastern side. Various fields that had been under different ownership are fenced within and outside the property. There are no fences at the western side of the subject property.

The LWL property can generally be divided into six (6) subareas:

- 1) The western most portion is a triangular area that is dominantly open fields of thistle and other weedy species. These fields are interspersed by mesquite trees. The area is defined by the steep hillslope that slopes down to the historic channel of Rock Creek (Figure 3) to the north and the highway right-of-way to the south. Scrap metal, a pile of old tires and other debris is located in this area along the hillslope and above (Figures 4 and 5).
- 2) Moving east, a thin strip of land exists between the Old Texas Compress building (to the south) and riparian terraces to the north. An air sparging groundwater remediation system has been set up on the river terrace in this location (Figure 6 and 7). Wells, piping, and a pump house are located on the lower and upper terrace (Figure 8). The upper slope is covered in scrap metal and other debris that is to be removed or properly covered by clean soil as part of the habitat restoration efforts (Figure 9). In addition there are large pieces of machinery and a roll-off box located just north of the Old Texas Compress building that are to be removed. (Figures 10 and 11).
- 3) The south-central portion of the subject property is open fields (Figure 13) as well as two large animal pastures with shelter huts (Figure 13). Fences surround the pasture area and pens (Figure 14). The fields are mostly unfenced.
- 4) Moving north, a triangular-shaped open field comprises the central portion of the subject property (Figure 15). An impoundment had been constructed at the eastern portion of the property which currently forms a terrace at the southern side of the field. An unimproved

gravel road to access the USGS Gage Station is located at the eastern property boundary. A local volunteer who collects a water quality sample for the USGS uses this access on a daily basis. A barbed-wire fence surrounds this parcel. Groundwater piezometer wells are located in the north-central portion of the field (Figure 16). A two-track road/trail is located at the northern boundary of the property.

- 5) To the east, there are two open fields located north and south of the access road to the North Pond area, owned by ATOFINA (Figures 17 and 18). Four-strand barbed-wire fences surround these parcels. A small active pig-farm is located to the south.
- 6) At the eastern end of the LWL property, an irregularly shaped parcel of property lies within the North Pond area. This parcel has been subject to excavation of surface and subsurface soils to remove asphalt impacted soils. A stockpile of concrete to be used to fill excavated areas lies within the LWL property (Figure 19).

An active seep of hydrocarbons into the Colorado River is located just north of the site (Figure 20). Generally, the majority of the western portion of the property has shallow groundwater impacts from hydrocarbons and arsenic. Remediation efforts at the former Col-Tex refinery, being managed under an Agreed Order with TNRCC include an air sparging system on the subject property to clean up the impacted groundwater. Clean up efforts at the former refinery are addressing the source of contaminants.

### **Biological Inventory**

While no formal Biological Inventory Evaluation was performed on the Lone Wolf Land Co. property, a BIE was done on adjacent land parcels. Generally the property is vegetated by weeds and opportunistic plants typical of disturbed land in the region (grasses, daisies, ragweed, sunflower, plattain, goldenrod, etc.). There are areas dominated of invasive weed species such as thistle and johnson grass. Typical mesquite-scrub land is found in upland areas. The riparian areas are covered with tamarisk.

### **Check List**

The following table provides a baseline checklist and description of relevant features found on the property:



Table 1. Baseline Checklist for Conservation Easement – Lone Wolf Land Co. Property

Case Name:	Col-Tex Refinery Compensatory Restoration	Preparer's Name:	C. White, ENTRIX; C. Brigance, TNRCC
Property Name:	Lone Wolf Land Co. Property	Date:	6/1/02

Activity	YES	NO	If YES, Description
Any agricultural, commercial, or industrial activity?		X	In the past the open fields included in the property have been used for agricultural purposes. Immediately adjacent to the property is the Old Texas Compress building that had been used for an industrial/agricultural support facility to bale cotton. Currently this facility is used to store and fabricate equipment to use in the Lone Wolf Resources road-base recycling operations. Active monitor and air sparging wells are located on the site and used for shallow groundwater remediation activities.
Any mowing, farming, tilling or places where native vegetation is removed?	X		The open fields have been plowed in past resulting in vegetation typical of a disturbed site (thistle, johnson grass, and other weedy species).
Any domestic livestock or other domesticated animal species?		X	The enclosed pastures and animal shelters located in the center of the property are currently being used to house goats raised as a 4-H project and other domestic animals.
Any dumped or stored waste, trash, etc.?	X		Scrap metal and debris is found on the hill that slopes up from the south side of the river, adjacent to the Old Texas Compress building.
Any evidence of horseback riding?		X	There is no evidence of horseback riding on the property.
Any evidence of off-road use of motorized vehicles, including recreational vehicles?		X	There are road trails that transverse the property as shown in Figure 1.
Any telephone, telegraph, cable television, electric, gas, oil, chemical, water, sewer or other utility lines/pipelines?	X		Electric utility lines cross the subject property. The main electric lines enter the property from Highway 80 along the main access road to the USGS gage station. Electrical lines also services the Old Texas Compress building and the adjacent air sparging pump house.
Has the property been subdivided?	X		The subject property is subdivided into multiple parcels. In addition roads have been plated through the area. The current land owner is in the process of deplating these roadways.

Table 1, continued. Baseline Checklist for Conservation Easement – Lone Wolf Land Co. Property

Activity	YES	NO	If YES, Description
Any structure on the property, including signs?	X		There is a shed located near the Old Texas Compress Building that contains the pump for the air sparging system that is used to remediate the shallow groundwater in the north seep area (Figure 21). Two animal shelters are associated with the pastures at the southern edge of the property. The stilling well at the USGS gage station is a large concrete tower with solar panels to transmit data to the USGS field office (Figure 22).
Any non-native, exotic plants or animal species?	X		Tamarisk and other non-native plants are found on the property.
Any exterior artificial illumination?		X	None
Any roads or paths?	X		Road/trails are located throughout the property. These are visible on the aerial photograph (Figure 1) as well as on the topographic map (Figure 2).
Any evidence of hunting, fishing or trapping?		X	None
Any dredged/filled area or constructed ponds or dikes or other alteration in natural watercourses?	X		There is an old impoundment or terrace that had been constructed at the upper (south) end of an open field at the center of the subject property. This impoundment has filled in and does not currently hold significant amounts of water.
Any evidence of mining?		X	None
Any evidence of pollution, alteration, depletion, or extraction of water?	X		A hydrocarbon seep enters the Colorado River north of the center of the property. This seep is being managed under an Agreed Order from the TNRCC and is being actively remediated through an air sparging system. Shallow groundwater impacts are being monitored on the property.

## List of Figures

Figure 1. Aerial photograph of the subject property showing property boundary.

Figure 2. Topographic map of the subject property showing roads, monitor well locations, and other infrastructure.

Figure 3. View NE from the southwest corner of the historic channel of Rock Creek at the upstream dam toward the Old Texas Compress Building. Note: Water entered isolated channel from the river during 12.3-foot flood stage.

Figure 4. View E from the location of historic channel of Rock Creek looking towards the near vertical hillslope that is covered with scrap metal and other debris.

Figure 5. View E from the top of the hill above the historic channel of Rock Creek looking towards a pile of old tires and other debris. Note mesquite trees growing along the hillslope.

Figure 6. View E from base of hill north of the Old TX Compress building showing remediation system. Note: debris and trash on hill slope to the south.

Figure 7. View W along two-track road that services the north seep remediation system. Wells are covered with metal boxes and PVC piping connects the system.

Figure 8. View SW from the north seep remediation system showing an old tank located at the base of the hill slope that is covered with scrap metal and other debris.

Figure 9. View S from the north seep remediation system showing an old cotton compress and other scrap metal and debris found just north of the Old TX Compress building.

Figure 10. Close view NW of debris located north of Old TX Compress building.

Figure 11. View NW from N side of Old TX Compress building showing roll off box used to collect debris. Note: trash piles along top of hill that slopes towards the Colorado River.

Figure 12. View SE from Old TX Compress building showing field located just west of animal pens. Note: National Foam buildings in background.

Figure 13. View SSW from entrance of road to access USGS gage station. Note: electric utility lines, equipment and animal pens in background.

Figure 14. View W along southern boundary of LWL property showing animal pens and Old Texas Compress building

Figure 15. View NE from the SW corner of the westernmost LWL field. View is from hill above field adjacent to the Old TX Compress building. Note: remediation system wells and USGS gage station in background.

Figure 16. View E from southwest corner of the field west of USGS gage station showing stilling well in background. Note: Inundation of remediation wells. Flood stage is 12.2 feet.

Figure 17. View S from road at south side of the LWL eastern field. Note: well casing ?? in foreground.

Figure 18. View SE of southern LWL field from east side of the main access road.

Figure 19. View NW from North Pond area showing large concrete/rubble pile at eastern end of LWL property..

Figure 20. View N of the Colorado River from the north seep remediation system. Note: boom that is anchored in the river at the location of the north seep.

Figure 21. Close view E of air sparging system pump house located north of Old TX Compress building. Note: USGS gage station in background at right side of photo.

Figure 22. Stilling well and gate in northern fence at USGS gage station.

### **List of Videos - Provided as separate files**

Video 1. View of southeasternmost field (located SW of the ATOFINA North Pond area) from the NE corner, panning E to W.

Video 2. View of easternmost field (located W of the North Pond area) from the SE corner, panning W to NNE.

Video 3. View of easternmost field (located W of the North Pond area) from the SW corner, panning E to N.

Video 4. View of field SW of the USGS gage station, panning from SSE to NNW. Note: road to gage station at the east fenceline.

Video 5. View of field SW of the USGS gage station from the gate at the NW corner, panning from E to S. Note remediation system wells at the western end of the field, at the base of the hillslope.

Video 6. View of remediation system and field SW of the USGS gage station, panning from W to E.

Video 7. View of fields located N of the National Foam facility (red building) and animal pens from the entrance to the road that leads to the USGS gage station. View pans from S to N.

Video 8. View of animal pens and fields located east of the Old Texas Compress building (grey building) from the southern property boundary at the existing road that leads to the USGS gage station. View pans from W to N.

Video 9. View of fields east of the Old Texas Compress building from the NE corner of the circular drive to the back of the building. View pans from NE to S.

Video 10. View of the field located E of the Old Texas Compress building from the NW corner of the field at the edge of the steep hill slope covered with metal debris, panning E to SW. Note: pile of tires and debris at the N side of the field.

Video 11. View of the field and swale located E of the Old Texas Compress building and just north of the private property (white house) adjacent to the project property. View pans SE to W.

Video 12. View of hillslope and historic channel of Rock Creek from the NE edge of the channel, panning from SE to NW. Note: trash on far hillslope and the ditch that has been cut parallel to the hillslope that drains to the historic creek channel.





0 200  
FEET  
APPROX. SCALE

ENTRIX		
Figure 1 Baseline Documentation Aerial Photo - October 2001 Lone Wolf Land Co. Property		
PROJ. NO: 128816	CK:	DATE: 06/02



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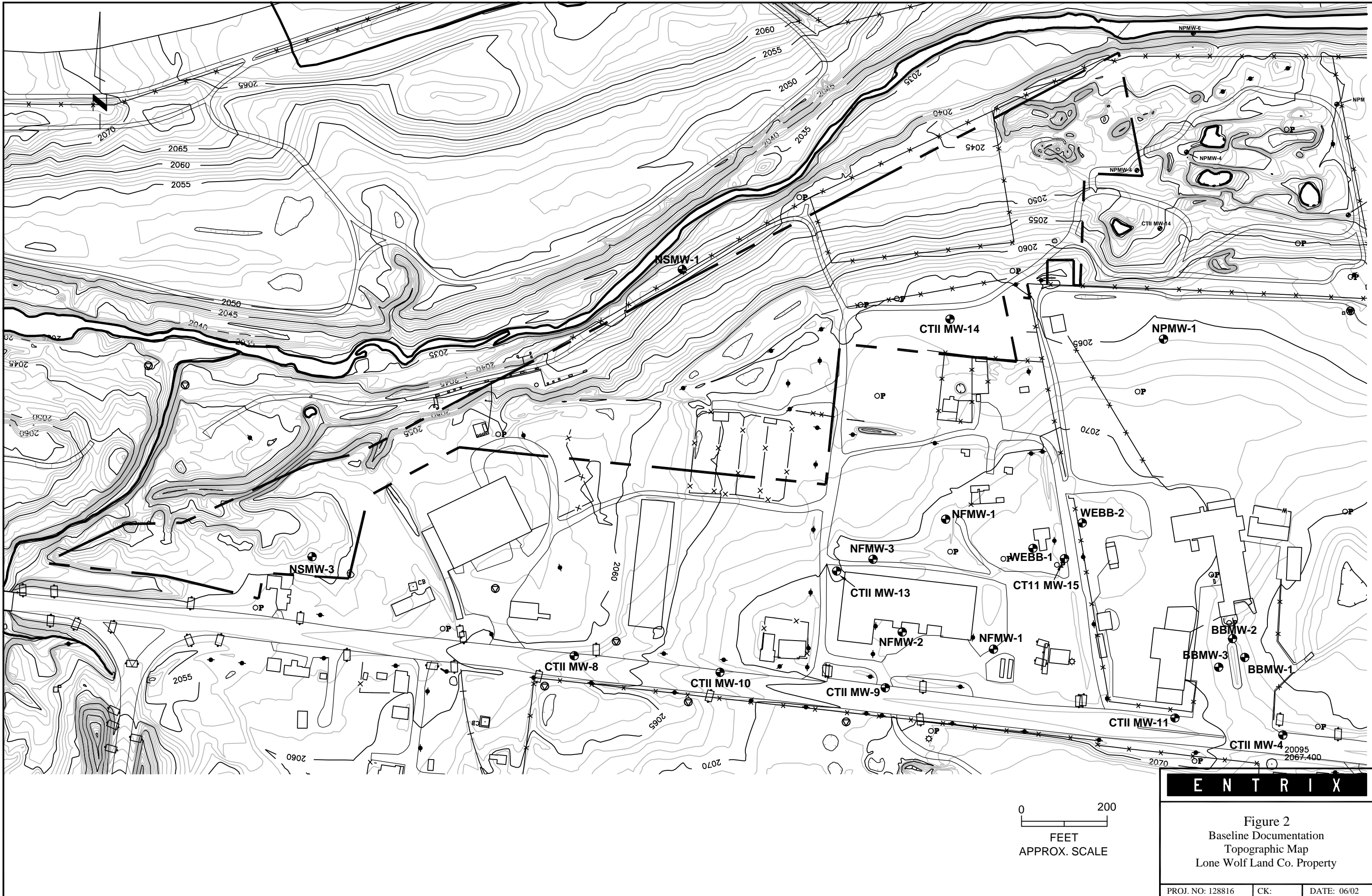




Figure 3. View NE from the southwest corner of the historic channel of Rock Creek at the upstream dam toward the Old Texas Compress Building. Note: Water entered isolated channel from the river during 12.3-foot flood stage.





Figure 4. View E from the location of historic channel of Rock Creek looking towards the near vertical hillslope that is covered with scrap metal and other debris.



Figure 5. View E from the top of the hill above the historic channel of Rock Creek looking towards a pile of old tires and other debris. Note mesquite trees growing along the hillslope.





Figure 6. View E from base of hill north of the Old TX Compress building showing remediation system. Note: debris and trash on hill slope to the south.



Figure 7. View W along two-track road that services the north seep remediation system. Wells are covered with metal boxes and PVC piping connects the system.





Figure 8. View SW from the north seep remediation system showing an old tank located at the base of the hill slope that is covered with scrap metal and other debris.



Figure 9. View S from the north seep remediation system showing an old cotton compress and other scrap metal and debris found just north of the Old TX Compress building.





Figure 10. Close view NW of debris located north of Old TX Compress building.



Figure 11. View NW from N side of Old TX Compress building showing roll off box used to collect debris. Note: trash piles along top of hill that slopes towards the Colorado River.





Figure 12. View SE from Old TX Compress building showing field located just west of animal pens. Note: National Foam buildings in background.



Figure 13. View SSW from entrance of road to access USGS gage station. Note: electric utility lines, equipment and animal pens in background.



Figure 14. View W along southern boundary of LWL property showing animal pens and Old Texas Compress building





Figure 15. View NE from the SW corner of the westernmost LWL field. View is from hill above field adjacent to the Old TX Compress building. Note: remediation system wells and USGS gage station in background.



Figure 16. View E from southwest corner of the field west of USGS gage station showing stilling well in background. Note: Inundation of remediation wells. Flood stage is 12.2 feet.





Figure 17. View S from road at south side of the LWL eastern field. Note: well casing ?? in foreground.



Figure 18. View SE of southern LWL field from east side of the main access road.



Figure 19. View NW from North Pond area showing large concrete/rubble pile at eastern end of LWL property..





Figure 20. View N of the Colorado River from the north seep remediation system. Note: boom that is anchored in the river at the location of the north seep.



Figure 21. Close view E of air sparging system pump house located north of Old TX Compress building. Note: USGS gage station in background at right side of photo.



Figure 22. Stilling well and gate in northern fence at USGS gage station.

**EXHIBIT X**  
**Project Completion Schedule and Certification**

**EXHIBIT X**  
**PROJECT COMPLETION SCHEDULE AND CERTIFICATION**

	Erosion Control	Riparian	Upland	Pond	Guzzler	Public Use
<b>Year 1</b>						
3 <sup>rd</sup> Qtr		• Site Preparation	• Site Preparation			
4 <sup>th</sup> Qtr	• Installation • P.E. Certification	• Site Preparation	• Site Preparation	• Installation • P.E. Certification		
<b>Year 2</b>						
1 <sup>st</sup> Qtr		• Phase I – Transplant Cuttings, Seed Grasses and Plant Seedlings	• Seed Grasses and Plant Seedlings	• Planting • Planting Certification	• Fabrication	
2 <sup>nd</sup> Qtr					• Site Preparation • Installation • Certification	• Installation • Certification
3 <sup>rd</sup> Qtr		• 1 <sup>st</sup> Monitoring Event (Phase I)	• 1 <sup>st</sup> Monitoring Event	• Evaluation of Emergent Vegetation		
<b>Year 3</b>						
1 <sup>st</sup> Qtr		• Phase II – Plant Seedlings				
3 <sup>rd</sup> Qtr		• 2 <sup>nd</sup> Monitoring Event (Phase I & II)	• 2 <sup>nd</sup> Monitoring Event	• Evaluation of Emergent Vegetation • Vegetation Certification		

**EXHIBIT X, CONTINUED**  
**PROJECT COMPLETION SCHEDULE AND CERTIFICATION**

	<b>Erosion Control</b>	<b>Riparian</b>	<b>Upland</b>	<b>Pond</b>	<b>Guzzler</b>	<b>Public Use</b>
<b>Year 4</b>						
3 <sup>rd</sup> Qtr		<ul style="list-style-type: none"> <li>• 3<sup>rd</sup> Monitoring Event (Phase I &amp; II)</li> </ul>	<ul style="list-style-type: none"> <li>• 3<sup>rd</sup> Monitoring Event</li> </ul>	<ul style="list-style-type: none"> <li>• Evaluation of Emergent Vegetation, as needed</li> <li>• Vegetation Certification, if not previously met</li> </ul>		
<b>Year 5</b>						
3 <sup>rd</sup> Qtr		<ul style="list-style-type: none"> <li>• 4<sup>th</sup> Monitoring Event (Phase I &amp; II)</li> </ul>	<ul style="list-style-type: none"> <li>• 4<sup>th</sup> Monitoring Event</li> </ul>			
<b>Year 6</b>						
3 <sup>rd</sup> Qtr		<ul style="list-style-type: none"> <li>• 5<sup>th</sup> Monitoring Event (Phase I &amp; II)</li> <li>• Certification of Phase I*</li> </ul>	<ul style="list-style-type: none"> <li>• 5<sup>th</sup> Monitoring Event</li> <li>• Certification*</li> </ul>			
<b>Year 7</b>						
3 <sup>rd</sup> Qtr		<ul style="list-style-type: none"> <li>• 6<sup>th</sup> Monitoring Event (Phase II)</li> <li>• Certification of Phase II*</li> </ul>				

\* Assuming a curative measure was not performed.